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# REVISED STATUTES

OF

## ONTARIO, 1980

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1979

VOL. 8

TORONTO  
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# REVISED STATUTES OF ONTARIO, 1980

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## CHAPTER 447

## Religious Freedom Act

**W**HEREAS the recognition of legal equality among all <sup>Preamble</sup> religious denominations is an admitted principle of Provincial legislation; And whereas, in the state and condition of this Province, to which such principle is peculiarly applicable, it is desirable that the same should receive the sanction of direct legislative authority, recognizing and declaring the same as a fundamental principle of the civil policy of this Province:

*Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—*

**1.** The free exercise and enjoyment of religious profession and worship, without discrimination or preference, provided the same <sup>Free exercise of religious profession, etc., guaranteed</sup> be not made an excuse for acts of licentiousness, or a justification of practices inconsistent with the peace and safety of the Province, is by the constitution and laws of this Province assured to all Her Majesty's subjects within the same. R.S.O. 1897, c. 306, s. 1.



## CHAPTER 448

## Religious Organizations' Lands Act

## 1.—(1) In this Act,

Interpre-  
tation

(a) “meeting” means a meeting of the members of a religious organization that has been called by notice in accordance with section 18;

(b) “religious organization” means an association of persons,

(i) that is charitable according to the law of Ontario,

(ii) that is organized for the advancement of religion and for the conduct of religious worship, services or rites, and

(iii) that is permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices,

and includes an association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof;

(c) “trustees” means the trustees appointed by a religious organization to acquire, hold and possess land for its benefit, and includes their successors.

(2) In interpreting subclause (1) (b) (i), an organization does not <sup>Idem</sup> cease to be charitable for the reason only that activities that are not charitable but are merely ancillary to a charitable purpose are carried on in conjunction with a charitable purpose.

(3) Where a separate religious organization is formed <sup>Derivative organizations</sup> out of an existing religious organization, whether voluntarily or otherwise, and the new organization meets the require-



ments of subclauses (1) (b) (i) and (ii), it shall nevertheless be considered to be a religious organization for the purposes of this Act. 1979, c. 45, s. 1.

Acquisition  
and holding  
of land

**2.** A religious organization may acquire and hold land for the purpose of,

- (a) a place of worship;
- (b) a residence for its religious leader;
- (c) a burial or cremation ground;
- (d) a bookstore or a printing or publishing office;
- (e) a theological seminary or similar institution of religious instruction;
- (f) a religious camp, retreat or training centre; or
- (g) any other religious purpose,

in the name of trustees, individually or by collective designation, and their successors in perpetual succession for the benefit of the religious organization. 1979, c. 45, s. 2.

Appointment  
and tenure  
of trustees

**3.—(1)** A religious organization may by resolution adopted at a meeting of the organization,

- (a) appoint trustees and fill any vacancy in the office of trustee;
- (b) provide for the retirement or removal of trustees and for the appointment of their successors;
- (c) remove any trustee from office;
- (d) decrease or increase the number of trustees;
- (e) confer upon trustees the power to acquire, hold and possess land for one or more of the purposes set out in section 2.

Termination  
of office

(2) Unless the constitution or a resolution of the religious organization otherwise provides, a trustee holds office until he dies, resigns or ceases to be a member of the organization.

Powers of  
trustees where  
vacancy

(3) Where a vacancy occurs in the number of the trustees of a religious organization, until the vacancy is filled, the remaining trustees then in office have all the

estate in and title to the land of the organization and have all the powers conferred by this Act with respect thereto as were originally vested in the whole number.

(4) A trustee appointed to fill a vacancy together with the trustees originally appointed or subsequently appointed and who remain in office have all the estate, title and powers vested in the original trustees.

Powers of  
successor  
trustees

(5) Where no trustees of a religious organization remain in office, the land to which the organization is entitled vests automatically in trustees subsequently appointed by the organization and their successors without the necessity of any conveyance.

Vesting of  
land in  
successor  
trustees

(6) Where a religious organization is entitled to land and the manner of appointing trustees or their successors is not set out in the instrument granting or devising the land, it vests automatically in the trustees appointed under subsection (1) and their successors to be held in trust for the organization without the necessity of any conveyance. 1979, c. 45, s. 3.

Where  
successor  
trustees not  
provided for

4. Where, under the constitution, customs or practices of a religious organization, its property is vested in one person, the person shall be deemed to be a trustee and has the powers and duties of trustees under this Act. 1979, c. 45, s. 4.

Property  
vested in  
one person

5.—(1) Each of two or more religious organizations may by resolution appoint joint trustees and provide for the appointment of their successors and may enter into agreements respecting the holding of land for their joint benefit by such joint trustees for any of the purposes enumerated in section 2 and all the provisions of this Act apply with necessary modifications to such joint trustees.

Joint  
trustees

(2) Where land referred to in subsection (1) was, before the agreement, held by different bodies of trustees, the religious organizations may direct them in the agreement or otherwise to convey or transfer the land to the joint trustees appointed in accordance with subsection (1) and their successors. 1979, c. 45, s. 5.

Conveyance  
to joint  
trustees

6.—(1) The trustees of a religious organization shall not exercise any of the powers conferred upon them by this Act until they are authorized to do so by resolution of the organization, and the organization may attach such terms or conditions to any such authorization as it considers expedient.

Authorization  
required to  
exercise of  
powers

Authorization  
in case of  
joint  
trustees

(2) In the case of joint trustees for two or more religious organizations, the authorization shall be obtained by resolutions adopted by each religious organization for whose benefit land is or is to be held. 1979, c. 45, s. 6.

Power to  
enter into  
agreements  
to purchase  
land

7. The trustees of a religious organization may enter into agreements to purchase land for the benefit of the organization for any of the purposes of this Act. 1979, c. 45, s. 7.

Power to  
conduct  
actions

8. The trustees of a religious organization may, individually or by collective designation, maintain and defend actions for the protection of the land and of the interest of the religious organization therein. 1979, c. 45, s. 8.

Power to  
mortgage  
land

9.—(1) The trustees of a religious organization may secure any debt contracted for the acquisition or improvement of land under this Act, or for the building, repairing, extending or improving of any buildings thereon, by a mortgage or charge on all or any part of the land of the organization.

Power to  
release  
equity of  
redemption

(2) If a mortgage or charge on land held by the trustees of a religious organization for the benefit of the organization is in arrears as to principal or interest, or both, the trustees may release, transfer or convey to the mortgagee or chargee or his assigns the equity of redemption in the land, or any part thereof, in satisfaction of the whole or any part of the debt. 1979, c. 45, s. 9.

Power to  
lease

10.—(1) The trustees of a religious organization may lease, for one term of forty years or for more than one term of not more than forty years in all, any land held by them for the benefit of the organization which is no longer required by it for any of the purposes enumerated in section 2, at such rent and upon such terms and conditions as they consider expedient.

Power to  
agree to  
renewal  
terms

(2) In any such lease, the trustees,

- (a) may, subject to the forty year maximum period specified in subsection (1), agree for the renewal thereof at the expiration of any or every term of years for a further term or terms at such rent and on such terms and conditions as may be agreed; or
- (b) may agree to pay to the lessee, his heirs, executors, administrators, successors or assigns a sum equal to the value of any buildings or other improvements that may at the expiration of any term be on the demised land.



(3) The method of ascertaining the amount of the rent during any renewal term or the value of the buildings or other improvements to be paid at the end of any term may be specified in the original or in any subsequent lease.

Method of  
ascertaining  
rent

(4) The trustees may take all proceedings for the recovery of rent or arrears of rent and of the demised land that landlords are entitled by law to take.

Recovery of  
rent and  
the land

(5) A religious organization may by resolution give its trustees a general authorization to lease any land held by them for terms not exceeding three years per term and when so authorized the trustees may, without further authorization, lease the land from time to time for a term or terms not exceeding three years per term. 1979, c. 45, s. 10.

Power to  
enter into  
short term  
leases

**11.** The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, grant easements or enter into covenants in respect of land held by them. 1979, c. 45, s. 11.

Easements  
and  
covenants

**12.—(1)** The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, sell or exchange at any time land held by them if the organization has by resolution determined that the land is no longer necessary for its purposes.

Power to  
sell

(2) When land of a religious organization is not required for its actual occupation for a purpose set out in section 2 and is not leased under section 10, the *Mortmain and Charitable Uses Act* applies in the same manner as if the land were then assured to the religious organization for charitable purposes.

Surplus land  
subject to

R.S.O. 1980,  
c. 297

(3) Subsection (1) does not affect any special powers or trusts for sale contained in any instrument inconsistent therewith.

Special  
powers not  
affected

**13.** The trustees of a religious organization out of which a separate religious organization is formed may convey or transfer to the trustees of the separate organization such part of the land held by them as is appropriate. 1979, c. 45, s. 13.

Conveyance  
to trustees  
of new  
religious  
organization

**14.** Where a religious organization desires to unite with another religious organization, the trustees of either organization may convey or transfer any land held by them to the trustees of the other religious organization or to the trustees of the united religious organization. 1979, c. 45, s. 14.

Conveyance  
where  
religious  
organizations  
unite

Conveyance  
to denomi-  
national  
board or  
trustees

**15.** The trustees of a religious organization may convey or transfer any land held by them for the benefit of the organization to an incorporated board or to trustees of the denomination or subdivision thereof of which the organization forms a part. 1979, c. 45, s. 15.

Duty to account

**16.** The trustees of a religious organization selling or leasing land under the authority of this Act shall on the first Monday in June in each year have ready and open for the inspection of the members of the organization a detailed statement showing the rents that accrued during the preceding year and all sums in their hands for the use and benefit of the organization that were in any manner derived from land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the organization. 1979, c. 45, s. 16.

Resolutions

**17.** A resolution respecting any of the purposes of this Act is adopted if the majority of those present at the meeting called for that purpose and entitled to vote thereat vote in favour of the resolution. 1979, c. 45, s. 17.

Notice of  
meeting

**18.—(1)** A notice calling a meeting of a religious organization for any of the purposes of this Act,

(a) shall specify the purpose of the meeting; and

(b) shall be given in accordance with the constitution, practice or custom of the religious organization.

Idem

(2) Where the constitution, practice or custom of a religious organization has no provision for the giving of notice calling a meeting, at least two weeks notice shall be given personally or by mail, or notice may be given by announcement at an open service at least once in each of the two weeks immediately preceding the week in which the meeting is proposed to be held. 1979, c. 45, s. 18.

Keeping of  
records

**19.—(1)** A copy of a resolution adopted under this Act shall be signed by the chairman and the secretary of the meeting at which it was adopted and shall be entered in the minute book or other record kept for that purpose.

Evidence

(2) A copy of a resolution adopted under this Act, certified as being a true copy by an officer of the organization, is *prima facie* proof of the matters therein stated.

Omissions

(3) Failure to comply with subsection (1) does not invalidate the resolution or anything done under it. 1979, c. 45, s. 19.

**20.** Any instrument affecting land made by or to trustees under this Act shall be expressed to be made under this Act, but failure to do so does not render the instrument void. 1979, c. 45, s. 20.

Instruments made pursuant to Act

**21.—**(1) Where letters patent from the Crown or a grant, conveyance or devise made before the 14th day of June, 1979 is made to persons described as trustees for a religious organization and to their successors, this Act applies to them and to the religious organization in the same manner as if the persons were duly appointed as trustees under this Act.

Former conveyance

(2) Where more than one letters patent from the Crown, grant, conveyance or devise have been made for the benefit of a religious organization under different names, the organization may at a meeting by resolution adopt one of the names or another name as the name in which its trustees shall hold the land thereafter. 1979, c. 45, s. 21.

Use of several names

**22.** A change in the name of a religious organization or manner in which the trustees are described does not affect the title to land held by the organization or its trustees in the former name. 1979, c. 45, s. 22.

Change of name

**23.—**(1) Where a religious organization has ceased to exist, or where the authorization required under section 6 cannot be obtained for any reason other than a dispute among the members of the organization concerning the organization's property, the persons in whom the land of the organization is vested as trustees or, upon their failure to do so or where no trustees remain in office, any interested person or the Public Trustee may apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate for directions, and the court may authorize the trustees or may appoint and authorize any other person to exercise any of the powers conferred by this Act.

Application to court for directions where religious organization has ceased to exist

(2) Upon such an application, the court may direct that the land or any part thereof be disposed of or that it or the proceeds of sale thereof be distributed in such manner as it considers proper, and the court may make such vesting orders as are expedient in the circumstances. 1979, c. 45, s. 23.

Power of court to direct sale

**24.—**(1) Any organization or other body that wishes to have determined whether or not it is entitled to acquire, hold and possess land under this Act may at any time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land in question or any part thereof is situate, and the court may determine the matter.

Applications to court as to applicability of Act



Applications  
to court by  
Public  
Trustee

(2) In like manner, the Public Trustee may apply to have determined whether any organization or other body that purports to hold and possess or that intends to acquire, hold and possess land under this Act is entitled to do so. 1979, c. 45, s. 24.

Removal of  
proceeding  
into Supreme  
Court

**25.**—(1) Where an application under subsection 23 (1) or under section 24 is made to a county or district court, any interested party may, by notice served on the applicant and on any other interested parties, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceeding to be removed into the Supreme Court.

Transmission  
of papers to  
Supreme  
Court

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the office of the Supreme Court in the county or district in which the application was made.

Proceedings  
in Supreme  
Court

(3) The proceeding is removed to the Supreme Court when the papers are received at the office of the Supreme Court. 1979, c. 45, s. 25.

Notice to  
Public  
Trustee

**26.**—(1) Notice of an application under subsection 23 (1) or subsection 24 (1) shall be given by the applicant to the Public Trustee.

Idem

(2) In any other proceeding in which the application of this Act is in issue, the court may direct that notice be given to the Public Trustee. 1979, c. 45, s. 26.

Subject to  
special Acts

**27.**—(1) This Act is subject to any special Act applying to a religious organization.

Subject  
to trust  
instruments

(2) This Act is subject to any trusts or powers of trustees in any deed, conveyance or other instrument. 1979, c. 45, s. 27.

## CHAPTER 449

## Replevin Act

1. In this Act, "sheriff" includes any officer to whom an execution or other process is directed. R.S.O. 1970, c. 412, s. 1. Interpretation

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained or have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery thereof and of the damages sustained by reason of the distraint, taking or detention. R.S.O. 1970, c. 412, s. 2. Where goods may be replevied

3. An action of replevin shall not be brought for the recovery of personal property seized under process by and in the custody of a sheriff, or for the recovery of liquor within the meaning of the *Liquor Licence Act* seized under any Act of the Legislature. R.S.O. 1970, c. 412, s. 3. Goods seized under legal process  
R.S.O. 1980, c. 244

4. Where a sheriff has in his hands an order of replevin and the property to be replevied or any part of it is reasonably supposed to be secured or concealed in a dwelling house of the defendant or of any other person holding it for him and the sheriff publicly demands at the door of the dwelling house delivery of the property to be replevied and it is not delivered to him within six hours after the demand, he may, and shall, if necessary, but during daylight only, break open the dwelling house for the purpose of replevying the property or any part of it, and, if found therein, shall make replevin according to the order. R.S.O. 1970, c. 412, s. 4. Power of sheriff

5. Where the property to be replevied, or any part of it is reasonably supposed to be secured or concealed in an enclosure other than a dwelling house of the defendant or of any other person holding it for him and the sheriff publicly demands at the enclosure delivery of the property to be replevied and it is not forthwith delivered to him, he may, and shall, if necessary, at once break open the enclosure for the purpose of replevying the property, or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1970, c. 412, s. 5. When concealed in other enclosure

When  
concealed  
on person,  
etc.

**6.** Where the property to be replevied or any part of it is reasonably supposed to be concealed either about the person or on the premises of the defendant or of any other person holding it for him and the sheriff demands from the defendant or such other person delivery thereof and delivery is neglected or refused, he may, and, if necessary shall, search and examine the person, and, subject to sections 4 and 5, the premises of the defendant or other person, for the purpose of replevying the property or any part of it, and, if found, shall make replevin according to the order. R.S.O. 1970, c. 412, s. 6.

## CHAPTER 450

## Representation Act

**1.** The boundaries of every territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward in any municipality shall for the purposes of this Act be deemed to be the boundaries of such territorial district, county, city, town, village, township, improvement district, borough, district municipality, regional municipality and ward as defined by statute, by-law, proclamation or other lawful authority on the 10th day of March, 1975. 1975, c. 13, s. 1. Boundaries

**2.** The Legislative Assembly of Ontario shall consist of one hundred and twenty-five members. 1975, c. 13, s. 2. Number of members

**3.—(1)** Ontario shall, for the purpose of representation in the Assembly, be divided into the electoral districts as set out in the Schedule. Division of Ontario into electoral districts

**(2)** One member shall be returned to the Assembly for each electoral district. 1975, c. 13, s. 3. One member per electoral district

**4.** The boundaries of the electoral districts as set out in the Schedule shall not be affected by alterations in municipal or ward boundaries made after the 10th day of March, 1975. 1975, c. 13, s. 4. Changes in municipal or ward boundaries

**5.** Where a county, city, town, village, township, improvement district, borough, district municipality or regional municipality becomes incorporated and is not expressly included in an electoral district set out in the Schedule but is situated in part in two or more of such electoral districts, the electors entitled to vote in such municipality are entitled to vote in the electoral district in which they would have been entitled to vote if the county, city, town, village, township, improvement district, borough, district municipality or regional municipality had not become incorporated. 1975, c. 13, s. 5. Municipalities on boundary lines

**6.** Except as otherwise expressly set out in the Schedule, every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situated. 1975, c. 13, s. 6. Augmentation or gores of townships



Municipalities included in electoral district in which situate

**7.** Every county, city, town, village, township, improvement district, borough, district municipality and regional municipality heretofore or hereafter incorporated, situate wholly within an electoral district as set out in the Schedule and not expressly included in any other electoral district in the Schedule, shall form part of the electoral district in which it is situate. 1975, c. 13, s. 7.

Special Act overruled

**8.** Every county, city, town, village, township, improvement district, borough, district municipality or regional municipality that by the provisions of any special Act passed before this Act comes into force forms or forms part of an electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule. 1975, c. 13, s. 8.

## SCHEDULE

In the following descriptions reference to "avenue", "boulevard", "canal", "channel", "court", "crescent", "drive", "highway", "railway line", "river", "road", "street", or "terrace", signifies the centre line of the features so named unless otherwise described.

Where county, territorial district or township areas are named for inclusion in an electoral district, it is intended that the whole of any city, separated town, town, village, township, improvement district and Indian reserve situated within such areas be included unless otherwise provided.

Where "townships" named and described for inclusion in an electoral district lie within a territorial district, it is intended that such townships refer to "geographic townships" as named and described in *The Territorial Division Act* in the Revised Statutes of Ontario, 1970, unless otherwise described.

## ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA—consists of that portion of the Territorial District of Algoma lying within the following limits: Commencing at the intersection of the easterly boundary of the Township of Striker and the waters of the North Channel of Lake Huron; thence northerly along the easterly boundaries of the townships of Striker and Mack to the northeast angle of the Township of Mack; thence westerly along the northerly boundary of the Township of Mack to the southeast angle of Township 161; thence northerly along the easterly boundaries of townships 161, 162 and 163 to the northeast angle of Township 163; thence easterly along the southerly boundaries of townships 1A, U, Q, M, I, E and A to the easterly boundary of the Territorial District of Algoma; thence northerly, westerly and southerly along the boundary of the Territorial District of Algoma to the International Boundary between Canada and the United States of America; thence southeasterly along the said International Boundary to the westerly prolongation of the southerly boundary of the Township of Prince; thence easterly along the said prolongation and the southerly boundary of the Township of Prince to the southeast angle of the said township; thence northerly along the easterly boundary of the Township of Prince to the northeast angle thereof; thence easterly along the southerly boundaries of the townships of Pennefather and Aweres to the westerly boundary of the Township of Duncan; thence southerly along the westerly boundary of the Township of Duncan, the easterly limit of the City of Sault Ste. Marie and the southerly prolongation of the said limit to the International Boundary between Canada and the United States of America; thence easterly and southeasterly along the said International Boundary to its intersection with the boundary between the Territorial Districts of Algoma and Manitoulin; thence easterly along the last-mentioned boundary to a point due south of the point of commencement; thence due north to the point of commencement; the towns of Blind River, Bruce Mines and Thessalon, and the villages of Hilton Beach and Iron Bridge, and the Improvement District of White River, but excluding the townships of Ebbs and Templeton.

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—consists of the Territorial District of Manitoulin and those portions of the Territorial Districts of Algoma and Sudbury lying within the following limits: Commencing at the intersection of the southerly boundary of the Territorial District of Sudbury and the easterly boundary of the Township of Curtin; thence northerly along the easterly boundaries of the townships of Curtin and Foster to the northeast angle of the Township of Foster; thence westerly along the northerly boundaries of the townships of Foster, Merritt, Hallam and May to the northwest angle of the Township of May; thence northerly along the easterly boundaries of the Township of Tennyson and townships 123, 124 and 125 to the northeast angle of Township 125; thence westerly along the northerly boundaries of townships 125, 132, 139, 145, 151 and 157 to the northwest angle of Township 157; thence southerly along the westerly boundary of the Township 157 to the northwest angle of the Township of Elliot Lake; thence southerly along the westerly boundary of the Township of Elliot Lake to the northeast angle of the Township of Striker; thence southerly along the easterly boundary of the Township of Striker to its intersection with the waters of the North Channel of Lake Huron; thence due south to a point in the southerly boundary of the Territorial District of Algoma; thence easterly along the southerly boundaries of the Territorial Districts of Algoma and Sudbury to the point of commencement; the towns of Espanola, Gore Bay, Little Current, Massey and Webbwood, and the Improvement District of the North Shore.

THE ELECTORAL DISTRICT OF BRAMPTON—consists of the City of Brampton.

THE ELECTORAL DISTRICT OF BRANTFORD—consists of the City of Brantford.

THE ELECTORAL DISTRICT OF BRANT-OXFORD-NORFOLK—consists of the townships of Blandford-Blenheim, Brantford, Burford, Oakland, Onondaga, South Dumfries and Tuscarora, that portion of the Township of Delhi contained in Wards 1 and 2, that portion of the Township of Norfolk contained in the former Township of Middleton and annexed to the Township of Norfolk on April 1, 1974, that portion of the City of Nanticoke contained in Ward 3, and the Town of Paris.

THE ELECTORAL DISTRICT OF BROCK—consists of that portion of the City of St. Catharines lying west and south of a line described as follows: Commencing at the intersection of the shore of Lake Ontario and Twelve Mile Creek; thence southerly and easterly along Twelve Mile Creek to its intersection with the Old Welland Canal; thence northerly and easterly along the Old Welland Canal to Eastchester Avenue; thence easterly along Eastchester Avenue to the Queen Elizabeth Way; thence easterly along the Queen Elizabeth Way to the easterly limit of the City of St. Catharines; and the Town of Niagara-on-the-Lake.

THE ELECTORAL DISTRICT OF BURLINGTON SOUTH—consists of that portion of the City of Burlington lying west and south of a line described as follows: Commencing at the intersection of the limit between the City of Burlington and the Town of Oakville with the shore of Lake Ontario; thence northerly along the said limit to Queen Elizabeth Way; thence westerly along Queen Elizabeth Way to Guelph Line; thence northerly along Guelph Line to Upper Middle Road; thence westerly along Upper Middle Road to Brant Street; thence southerly along Brant Street to Highway No. 403; thence westerly along Highway No. 403 to Kerns Road; thence northerly and westerly along Kerns Road to the northwesterly limit of the City of Burlington.

THE ELECTORAL DISTRICT OF CAMBRIDGE—consists of the Township of North Dumfries and the City of Cambridge.

THE ELECTORAL DISTRICT OF CARLETON—consists of the townships of March and Nepean.

THE ELECTORAL DISTRICT OF CARLETON EAST—consists of the Township of Gloucester, the Village of Rockcliffe Park and those portions of the City of Ottawa lying northerly, easterly and southerly of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the westerly prolongation of Rideau Gate; thence easterly along the said prolongation of Rideau Gate to the N.C.C. Drive; thence northeasterly along the N.C.C. Drive to Princess Avenue; thence easterly along Princess Avenue to the westerly limit of the Village of Rockcliffe Park; thence northerly, easterly and southerly along the limits of the Village of Rockcliffe Park to the northerly limit of the City of Vanier; thence easterly and southerly along the limits of the City of Vanier to Montreal Road; thence easterly along Montreal Road to Eastern Parkway; thence southerly along Eastern Parkway to the southerly limit of the City of Ottawa; thence westerly and southerly along the limits of the City of Ottawa to the Queensway; thence westerly along the Queensway to St. Laurent Boulevard; thence southerly along St. Laurent Boulevard to Walkley Road; thence westerly along Walkley Road to the Rideau River; thence westerly and southwesterly along the Rideau River to the westerly limit of the City of Ottawa.

THE ELECTORAL DISTRICT OF CARLETON-GRENVILLE—consists of the County of Grenville, the townships of Goulbourn, Osgoode and Rideau, the Separated Town of Prescott, the Town of Kemptville, and the villages of Cardinal and Merrickville.

THE ELECTORAL DISTRICT OF CHATHAM-KENT—consists of the townships of Chatham and Dover, the City of Chatham, and the Town of Wallaceburg.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—consists of the townships of Ebbs and Templeton and that portion of the Territorial District of Cochrane lying north and west of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the southerly shore of Lake Abitibi; thence northwesterly along the water's edge of Lake Abitibi to the southerly boundary of the Township of Galna; thence westerly along the southerly boundaries of the townships of Galna, Moody, Wesley, Edwards, Aurora and Newmarket to the southwest angle of the township of Newmarket; thence southerly along the easterly boundary of the Township of Little to the southeast angle of the Township of Little; thence westerly along the southerly boundaries of the townships of Little, Tully, Prosser, Carnegie, Reid and Thorburn to the southwest angle of the Township of Thorburn; thence southerly along the easterly boundaries of the townships of Byers, Cote, Massey, Whitesides and Keefer to the southerly boundary of the Territorial District of Cochrane; and that portion of the Territorial District of Kenora (Patricia Portion) lying east of a line described as follows: Commencing at the northwest angle of the Territorial District of Cochrane; thence northerly along the northerly prolongation of the westerly boundary of the Territorial District of Cochrane to the northerly limit of the Province of Ontario; and the towns of Cochrane, Hearst, Kapuskasing and Smooth Rock Falls.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—consists of that portion of the Territorial District of Cochrane lying south of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the provinces of Ontario and Quebec and the southerly shore of Lake Abitibi; thence northwesterly along the water's edge of Lake Abitibi to the northerly boundary of the Township of Kerrs; thence westerly along the northerly boundaries of the townships of Kerrs and Knox to the northeast angle of the Town of Iroquois Falls; thence westerly along the northerly limit of the Town of Iroquois Falls to the northeast angle of the Township of Teefy;



thence westerly along the northerly limit of the Township of Teefy to the northerly limit of the Town of Iroquois Falls; thence westerly and southerly along the limits of the Town of Iroquois Falls to the northerly limit of the City of Timmins; thence westerly along the northerly limit of the City of Timmins to the northwest angle of the City of Timmins; the City of Timmins, and the Town of Iroquois Falls.

THE ELECTORAL DISTRICT OF CORNWALL—consists of the Township of Cornwall and the City of Cornwall.

THE ELECTORAL DISTRICT OF DUFFERIN-SIMCOE—consists of the townships of Adjala, Essa, Mono, Mulmer, Nottawasaga, Sunnidale, Tecumseth, and Tosoronto, the towns of Alliston, Collingwood, Orangeville, Stayner and Wasaga Beach, and the villages of Beeton, Creemore and Tottenham.

THE ELECTORAL DISTRICT OF DURHAM EAST—consists of that portion of the City of Oshawa lying north of a line described as follows: Commencing at the intersection of Rossland Road West and the westerly limit of the City of Oshawa; thence easterly along Rossland Road West to Simcoe Street North; thence southerly along Simcoe Street North to King Street East; thence easterly along King Street East to the easterly limit of the City of Oshawa; and the Town of Newcastle.

THE ELECTORAL DISTRICT OF DURHAM-YORK—consists of the townships of Brock, East Gwillimbury, Georgina, Scugog and Uxbridge, and that part of the Town of Pickering lying north of the road allowance between concessions 4 and 5 in the geographic township of Pickering.

THE ELECTORAL DISTRICT OF DURHAM WEST—consists of the towns of Ajax and Whitby and that part of the Town of Pickering lying south of the road allowance between concessions 4 and 5 in the geographic township of Pickering.

THE ELECTORAL DISTRICT OF ELGIN—consists of the townships of Bayham, Malahide, South Dorchester, Southwold and Yarmouth; the City of St. Thomas; the Town of Aylmer, and the villages of Belmont, Port Burwell, Port Stanley, Springfield and Vienna.

THE ELECTORAL DISTRICT OF ERIE—consists of the Township of Wainfleet, the City of Port Colborne and the Town of Fort Erie.

THE ELECTORAL DISTRICT OF ESSEX NORTH—consists of the townships of Gosfield North, Maidstone, Rochester, Sandwich South, Sandwich West, Tilbury North and Tilbury West, the towns of Belle River, Essex and Tecumseh, and the Village of St. Clair Beach.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—consists of the townships of Anderdon, Colchester North, Colchester South, Gosfield South, Malden, Mersea, and Pelee including any islands forming part thereof, and the towns of Amherstburg, Harrow, Kingsville and Leamington, and the Village of Wheatley.

THE ELECTORAL DISTRICT OF FORT WILLIAM—consists of that portion of the Territorial District of Thunder Bay lying south and east of a line described as follows: Commencing at the intersection of the centre line of Thunder Bay of Lake Superior and the easterly prolongation of the north limit of Fort William ward in the City of Thunder Bay; thence westerly along the said prolongation, the north limits of Fort William and Neebing wards in the City of Thunder Bay and the northerly boundaries of the Township of Paipoonge to the easterly boundary of the Township of O'Connor; thence northerly along the said easterly boundary to the northerly boundary of the Township of O'Connor; thence westerly along the northerly boundaries of the townships of O'Connor and Marks to the northwest angle of the Township of Marks;

thence southerly along the westerly boundaries of the townships of Marks, Lybster, Fraleigh and Devon to the intersection of the westerly boundary of the Township of Devon and the International Boundary between Canada and the United States of America, and Fort William and Neebing wards in the City of Thunder Bay.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—consists of the townships of Abinger, Anglesea, Ashby, Barrie, Bedford, Camden (East), Clarendon, Denbigh, Effingham, Hinchinbrooke, Kaladar, Kennebec, Kingston, Loughborough, Miller, North Canonto, Olden, Oso, Palmerston, Pittsburgh, Portland, Sheffield, South Canonto and Storrington, and the Village of Newburgh.

THE ELECTORAL DISTRICT OF GREY—consists of the townships of Artemesia, Bentinck, Collingwood, Egremont, Euphrasia, Glenelg, Holland, Melancthon, Minto, Normanby, Osprey, Proton, St. Vincent, Sullivan and Sydenham, the towns of Durham, Hanover, Harriston, Meaford, Palmerston and Thornbury, and the villages of Chatsworth, Clifford, Dundalk, Flesherton, Markdale and Neustadt.

THE ELECTORAL DISTRICT OF GREY-BRUCE—consists of the townships of Albemarle, Amabel, Arran, Brant, Derby, Eastnor, Elderslie, Keppel, Lindsay, St. Edmunds, Sarawak, and the adjacent islands in Lake Huron and Georgian Bay of Lake Huron, the City of Owen Sound, the towns of Chesley, Walkerton and Wiarton, and the village of Hepworth, Lion's Head, Paisley, Shallow Lake and Tara.

THE ELECTORAL DISTRICT OF HALDIMAND-NORFOLK—consists of that portion of the Township of Delhi contained in Ward 3, the Township of Norfolk, but excluding that portion contained in the former Township of Middleton and annexed to the Township of Norfolk on April 1, 1974, that portion of the City of Nanticoke contained in Wards 1 and 2, and the towns of Dunnville, Haldimand and Simcoe.

THE ELECTORAL DISTRICT OF HALTON-BURLINGTON—consists of the towns of Halton Hills and Milton and that portion of the City of Burlington lying north and east of a line described as follows: Commencing at the intersection of the easterly limit of the City of Burlington and Queen Elizabeth Way; thence westerly along Queen Elizabeth Way to Guelph Line; thence northerly along Guelph Line to Upper Middle Road; thence westerly along Upper Middle Road to Brant Street; thence southerly along Brant Street to Highway No. 403; thence westerly along Highway No. 403 to Kerns Road; thence northerly, westerly and northerly along Kerns Road to the northwesterly limit of the City of Burlington.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—consists of that portion of the City of Hamilton lying north of a line described as follows: Commencing at the intersection of the Hamilton Harbour Headline and the northerly prolongation of Wellington Street; thence southerly along the said prolongation to and along Wellington Street to Main Street; thence westerly along Main Street to James Street; thence southerly along James Street to James Street Mountain Road; thence southwesterly along James Street Mountain Road to the brow of Hamilton Mountain; thence easterly along the brow of Hamilton Mountain to the southerly prolongation of Ottawa Street; thence northerly along the said prolongation and Ottawa Street to the first Canadian National Railway line north of Dalhousie Avenue; thence easterly along said railway line to Parkdale Avenue; thence northerly along Parkdale Avenue and the northerly prolongation of Parkdale Avenue to a point lying due west of the intersection of Woodward Avenue and Queen Elizabeth Way; thence due east through the said intersection and continuing due east to the northeasterly limit of the City of Hamilton.

THE ELECTORAL DISTRICT OF HAMILTON EAST—consists of that portion of the City of Hamilton lying within the following limits: Commencing at a point in the northeasterly limit of the City of Hamilton said point lying due east of the intersection of Woodward Avenue and Queen Elizabeth Way; thence due west through the said intersection and continuing due west to the northerly prolongation of Parkdale Avenue; thence southerly along the said prolongation and Parkdale Avenue to the first Canadian National Railway line north of Mahony Street; thence westerly along the said railway line to Ottawa Street; thence southerly along Ottawa Street and the southerly prolongation of Ottawa Street to the brow of Hamilton Mountain; thence easterly, southerly and northeasterly along the brow of Hamilton Mountain to the southeasterly limit of the City of Hamilton; thence easterly, northerly and westerly along the City limit to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON MOUNTAIN—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of the westerly limit of the City of Hamilton and Mohawk Road; thence easterly along Mohawk Road and the easterly prolongation of Mohawk Road to the brow of Hamilton Mountain; thence northwesterly and westerly along the brow of Hamilton Mountain to the westerly limit of the City of Hamilton; thence southeasterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON WEST—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of James Street and Main Street; thence easterly along Main Street to Wellington Street; thence northerly along Wellington Street and the northerly prolongation of Wellington Street to the northerly limit of the City of Hamilton; thence westerly, southwesterly, southerly and easterly along the limits of the City of Hamilton to the brow of Hamilton Mountain; thence easterly along the brow of Hamilton Mountain to James Street Mountain Road; thence northeasterly along James Street Mountain Road and northerly along James Street to the point of commencement.

THE ELECTORAL DISTRICT OF HASTINGS-PETERBOROUGH—consists of the townships of Anstruther, Asphodel, Belmont, Burleigh, Cavendish, Chandos, Dummer, Galway, Harvey and Methuen, that portion of the County of Hastings lying east and north of a line described as follows: Commencing at the intersection of the centre line of the Bay of Quinte, Lake Ontario and the southerly prolongation of the easterly limits of the City of Belleville; thence northerly along the said prolongation to the water's edge of the Bay of Quinte; thence northerly and westerly along the limits of the City of Belleville to the westerly boundary of the Township of Thurlow; thence northerly along the westerly boundary of the Township of Thurlow to the northwest angle thereof; thence westerly along the southerly boundary of the Township of Rawdon to the westerly boundary of the County of Hastings; the Town of Deseronto and the villages of Bancroft, Deloro, Havelock, Madoc, Marmora, Norwood, Stirling and Tweed.

THE ELECTORAL DISTRICT OF HURON-BRUCE—consists of the townships of Ashfield, Bruce, Carrick, Colborne, Culross, East Wawanosh, Greenock, Grey, Howick, Hullett, Huron, Kincardine, Kinloss, McKillop, Morris, Saugeen, Turnberry and West Wawanosh, the towns of Kincardine, Port Elgin, Southampton, and Wingham, and the villages of Blyth, Brussels, Lucknow, Mildmay, Ripley, Teeswater and Tiverton.

THE ELECTORAL DISTRICT OF HURON-MIDDLESEX—consists of the townships of Adelaide, Biddulph, East Williams, Goderich, Hay, McGillivray, Stanley, Stephen, Tuckersmith, Usborne and West Williams, the towns of Clinton, Exeter, Goderich, Parkhill and Seaforth, and the villages of Ailsa Craig, Bayfield, Hensall, Lucan and Zurich.



THE ELECTORAL DISTRICT OF KENORA—consists of that portion of the Territorial District of Kenora and the Patricia Portion lying north and west of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with the 4th Base Line; thence easterly along the 4th Base Line to the 6th Meridian Line; thence north along the 6th Meridian Line to the southwest angle of the Township of Wainwright; thence easterly along the southerly boundary of the said Township to the northwest angle of the Town of Dryden; thence southerly and easterly along the limits of the town of Dryden to the westerly limit of the Improvement District of Barclay; thence northerly, easterly and southerly along the limits of the Improvement District of Barclay to the southerly boundary of the Township of Brownridge; thence easterly along the southerly boundaries of the townships of Brownridge, Laval and McAree to the southeast angle of the Township of McAree; thence easterly along a line surveyed by Ontario Land Surveyors Phillips and Benner in 1932 to the easterly boundary of the Territorial District of Kenora; thence northerly along the easterly boundary of the Territorial District of Kenora to the centre line of Lake St. Joseph; thence northerly along the 3rd Meridian Line and its prolongation northerly to the Interprovincial Boundary between the Provinces of Ontario and Manitoba; the towns of Dryden, Keewatin, Kenora and Sioux Lookout, and the improvement districts of Balmertown and Sioux Narrows.

THE ELECTORAL DISTRICT OF KENT-ELGIN—consists of the townships of Aldborough, Camden, Dunwich, Harwich, Howard, Orford, Raleigh, Romney, Tilbury East and Zone, the towns of Blenheim, Bothwell, Dresden, Ridgetown and Tilbury and the villages of Dutton, Erieau, Erie Beach, Highgate, Rodney, Thamesville and West Lorne, but excluding the Village of Wheatley.

THE ELECTORAL DISTRICT OF KINGSTON AND THE ISLANDS—consists of the townships of Amherst Island, Howe Island and Wolfe Island, the City of Kingston, and the islands in the St. Lawrence River within the County of Frontenac.

THE ELECTORAL DISTRICT OF KITCHENER—consists of that portion of the City of Kitchener lying north and west of the Conestogo Parkway.

THE ELECTORAL DISTRICT OF KITCHENER-WILMOT—consists of the Township of Wilmot and the City of Kitchener, but excluding that portion of the City of Kitchener lying north and west of the Conestogo Parkway.

THE ELECTORAL DISTRICT OF LAKE NIPIGON—consists of that portion of the Territorial District of Thunder Bay lying west, north and east of a line described as follows: Commencing at a point on the International Boundary between Canada and the United States of America due south of the centre line of Black Bay of Lake Superior; thence north astronomically to the centre line of the said Bay; thence northeasterly along the centre line of Black Bay to the intersection of the said centre line and the easterly prolongation of the northerly boundary of the Township of McTavish; thence westerly along the said prolongation and the northerly boundary of the Township of McTavish to the northwest angle of the said township; thence southerly along the westerly boundary of the Township of McTavish to the northeast angle of the Township of MacGregor; thence westerly along the northerly boundary of the said township to the northwest angle thereof; thence northerly and westerly along the easterly and northerly boundaries of the Township of Gorham to the southeast angle of the Township of Jacques; thence northerly along the easterly boundary of the Township of Jacques to the northeast angle of the said township; thence westerly along the northerly boundaries of the townships of Jacques and Fowler to the northwest angle of the Township of Fowler; thence southerly along the westerly boundary of the Township of Fowler to the northerly boundary of the Township of Forbes; thence westerly along the northerly boundaries of the townships of Forbes and Goldie to the northwest angle



of the Township of Goldie; thence southerly along the westerly boundary of the townships of Goldie, Horne, Adrian, Marks, Lybster, Fraleigh and Devon to the International Boundary between Canada and the United States of America; and that portion of the Territorial District of Kenora (Patricia Portion) lying between the northerly prolongations of the easterly and westerly boundaries of the Territorial District of Thunder Bay to the northern limits of the Province of Ontario, the Town of Geraldton, and the improvement districts of Beardmore, Manitouwadge, Nakina and Red Rock, and the community of English River.

THE ELECTORAL DISTRICT OF LAMBTON—consists of that portion of the County of Lambton lying east and south of a line described as follows: Commencing at the intersection of the westerly boundary of the County of Lambton and the northerly boundary of the Township of Moore; thence easterly along the northerly boundary of the Township of Moore to the northeast angle thereof; thence northerly along the westerly boundaries of the townships of Enniskillen and Plympton to the water's edge of Lake Huron; the towns of Forest and Petrolia, and the villages of Alvinston, Arkona, Courtright, Grand Bend, Oil Springs, Thedford, Watford and Wyoming.

THE ELECTORAL DISTRICT OF LANARK—consists of the County of Lanark including the Separated Town of Smiths Falls, the towns of Almonte, Carleton Place and Perth, and the Village of Lanark.

THE ELECTORAL DISTRICT OF LEEDS—consists of the County of Leeds, the City of Brockville, the Separated Town of Gananoque and the villages of Athens, Newboro' and Westport.

THE ELECTORAL DISTRICT OF LINCOLN—consists of the Township of West Lincoln and the towns of Grimsby, Lincoln and Pelham.

THE ELECTORAL DISTRICT OF LONDON CENTRE—consists of that portion of the City of London lying within the following limits: Commencing at the intersection of the Thames River and Highbury Avenue; thence northerly along Highbury Avenue to Huron Street; thence westerly along Huron Street to Adelaide Street; thence northerly along Adelaide Street to the North Thames River; thence westerly and southerly along the North Thames River to Wharncliffe Road North; thence southerly along Wharncliffe Road North to Essex Street; thence westerly along Essex Street to Platts Lane; thence southerly along Platts Lane to Oxford Street; thence easterly along Oxford Street to Woodward Avenue; thence southerly along Woodward Avenue to Mount Pleasant Avenue; thence westerly along Mount Pleasant Avenue to the Canadian National Railway line; thence southeasterly along the said railway line to the Thames River; thence southeasterly along the Thames River to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON NORTH—consists of that portion of the City of London lying within the following limits: Commencing at the intersection of Highbury Avenue and the most southerly crossing of The Canadian National Railway line; thence northerly along Highbury Avenue to Huron Street; thence westerly along Huron Street to Adelaide Street; thence northerly along Adelaide Street to the North Thames River; thence westerly and southerly along the North Thames River to Wharncliffe Road North; thence southerly along Wharncliffe Road North to Essex Street; thence westerly along Essex Street to Platts Lane; thence southerly along Platts Lane to Oxford Street; thence easterly along Oxford Street to Woodward Avenue; thence southerly along Woodward Avenue to Mount Pleasant Avenue; thence westerly along Mount Pleasant Avenue to the Canadian National Railway line; thence southeasterly along said railway line to the Thames River; thence westerly along the Thames River to the westerly limit of the City of London; thence northerly, easterly and southerly along the limits of the City of London to the intersection of the easterly limit of the City of London and the Canadian National Railway line; thence westerly along said railway line to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON SOUTH—consists of that portion of the City of London lying within the following limits: Commencing at the intersection of the Thames River and the westerly limit of the City of London; thence southerly, easterly and northerly along the limits of the City of London to the Canadian National Railway line; thence westerly along said railway line to Highbury Avenue; thence southerly along Highbury Avenue to the Thames River; thence westerly along the Thames River to the point of commencement.

THE ELECTORAL DISTRICT OF MIDDLESEX—consists of the townships of Caradoc, Delaware, Ekfrid, Lobo, London, Metcalfe, Mosa, North Dorchester, Westminster and West Nissouri, the Town of Strathroy and the villages of Glencoe, Newbury and Wardsville.

THE ELECTORAL DISTRICT OF MISSISSAUGA EAST—consists of that portion of the City of Mississauga lying within the following limits: Commencing at the intersection of the easterly limit of the City of Mississauga and Queen Elizabeth Way; thence westerly along Queen Elizabeth Way to Hurontario Street; thence northerly along Hurontario Street to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the easterly limit of the City of Mississauga; thence southerly along the easterly limit of the City of Mississauga to the point of commencement.

THE ELECTORAL DISTRICT OF MISSISSAUGA NORTH—consists of that portion of the City of Mississauga lying north and west of a line described as follows: Commencing at the intersection of the westerly limit of the City of Mississauga and Queen Elizabeth Way; thence easterly along Queen Elizabeth Way to Hurontario Street; thence northerly along Hurontario Street to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the easterly limit of the City of Mississauga.

THE ELECTORAL DISTRICT OF MISSISSAUGA SOUTH—consists of that portion of the City of Mississauga lying south of Queen Elizabeth Way.

THE ELECTORAL DISTRICT OF MUSKOKA—consists of the District Municipality of Muskoka.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—consists of the City of Niagara Falls.

THE ELECTORAL DISTRICT OF NICKEL BELT—consists of that portion of the Territorial District of Sudbury lying north and west of a line described as follows: Commencing at the intersection of the easterly boundary of the Territorial District of Sudbury and the southerly boundary of the Township of Janes; thence westerly along the southerly boundaries of the townships of Janes, Davis and Scadding to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly and easterly along the limits of the Town of Valley East to the northwest angle of the City of Sudbury; thence southerly along the limits of the City of Sudbury to the intersection of the southerly limit of the City of Sudbury and the easterly limit of the Township of Eden; thence southerly along the easterly boundaries of the townships of Eden, Bevin and Sale to the southerly boundary of the Territorial District of Sudbury; thence westerly along the said boundary to the southwest angle of the Township of Roosevelt; thence northerly along the westerly boundaries of the townships of Roosevelt and Truman to the northwest angle of the Township of Truman; thence westerly along the southerly boundaries of the townships of Nairn, Baldwin, Shakespeare and Gough to the westerly boundary of the Territorial District of Sudbury; and the towns of Onaping Falls, Rayside-Balfour and Walden.

THE ELECTORAL DISTRICT OF NIPISSING—consists of that portion of the Territorial District of Nipissing lying north of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the northerly boundary of the Township of Mattawan;

thence westerly and southerly along the northerly and westerly boundaries of the said township to the southwest angle thereof; thence westerly along the southerly boundaries of the townships of Orlig and Phelps to the southwest angle of the Township of Phelps; thence westerly, southerly and westerly along the southeasterly boundary of the City of North Bay to the southerly boundary of the Territorial District of Nipissing, the City of North Bay, and the towns of Cache Bay and Sturgeon Falls, but excluding that portion of the Territorial District of Nipissing lying north of a line described as follows: Commencing at the northwest angle of the Township of Pardo; thence easterly along the northerly boundaries of the townships of Pardo, Hobbs, McCallum, Sisk, Kenny, Gooderham, LaSalle, McAuslan and Wyse to the boundary between the Provinces of Ontario and Quebec.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—consists of the County of Northumberland excluding that portion lying within the Town of Trenton, but including the towns of Campbellford, Cobourg and Port Hope and the villages of Brighton, Colborne and Hastings.

THE ELECTORAL DISTRICT OF OAKVILLE—consists of the Town of Oakville.

THE ELECTORAL DISTRICT OF OSHAWA—consists of that portion of the City of Oshawa lying south of a line described as follows: Commencing at the intersection of Rossland Road West and the westerly limit of the City of Oshawa; thence easterly along Rossland Road West to Simcoe Street North; thence southerly along Simcoe Street North to King Street East; thence easterly along King Street East to the easterly limit of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA CENTRE—consists of that portion of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec with the northerly prolongation of the Rideau Canal; thence southeasterly along said prolongation to and along the Rideau Canal to the Queensway; thence westerly along the Queensway to Bronson Avenue; thence southerly along Bronson Avenue to Carling Avenue; thence westerly along Carling Avenue to the Canadian Pacific Railway line; thence southerly along said railway line to the Rideau Canal; thence southerly and westerly along the Rideau Canal and the Rideau River to the southerly limit of the City of Ottawa; thence westerly and northerly along said city limit to Merivale Road; thence northerly along Merivale Road to Island Park Drive; thence northerly along Island Park Drive to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence easterly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA EAST—consists of the City of Vanier and that portion of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec with the westerly prolongation of Rideau Gate; thence easterly along the said prolongation of Rideau Gate to the N.C.C. Drive; thence northeasterly along the N.C.C. Drive to Princess Avenue; thence easterly along Princess Avenue to the westerly limit of the Village of Rockcliffe Park; thence easterly and southerly along the limits of the Village of Rockcliffe Park to the northerly limit of the City of Vanier; thence westerly, southerly, easterly and northerly along the limits of the City of Vanier to Montreal Road; thence easterly along Montreal Road to Eastern Parkway; thence southerly along Eastern Parkway to the southerly limit of the City of Ottawa; thence westerly and southerly along the limits of the City of Ottawa to the Queensway; thence westerly along the Queensway to the Rideau Canal; thence northerly along the Rideau Canal and the northerly prolongation of the Rideau Canal to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence northeasterly along the said Interprovincial Boundary to the point of commencement.



THE ELECTORAL DISTRICT OF OTTAWA SOUTH—consists of that portion of the City of Ottawa lying within the following limits: Commencing at the intersection of St. Laurent Boulevard and the Queensway; thence southerly along St. Laurent Boulevard to Walkley Road; thence westerly along Walkley Road to the Rideau River; thence northerly along the Rideau River to the Rideau Canal; thence northerly along the Rideau Canal to the Canadian Pacific Railway line; thence northerly along said railway line to Carling Avenue; thence easterly along Carling Avenue to Bronson Avenue; thence northerly along Bronson Avenue to the Queensway; thence easterly along the Queensway to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA WEST—consists of that portion of the City of Ottawa lying west of a line described as follows: Commencing at the intersection of the southerly limit of the City of Ottawa and Merivale Road; thence northerly along Merivale Road to Island Park Drive; thence northerly along Island Park Drive to the Interprovincial Boundary between the Provinces of Ontario and Quebec.

THE ELECTORAL DISTRICT OF OXFORD—consists of the County of Oxford except for the Township of Blandford-Blenheim.

THE ELECTORAL DISTRICT OF PARRY SOUND—consists of the Territorial District of Parry Sound and that portion of the Territorial District of Nipissing lying west and south of a line described as follows: Commencing at the northwest angle of the Township of Airy; thence easterly along the southerly boundary of the Township of Sproule to the southeast angle of the Township of Sproule; thence northerly along the easterly boundaries of the townships of Sproule, Bower and Freswick to the northeast angle of the Township of Freswick; thence easterly along the southerly boundary of the Township of Lister to the southeast angle of the Township of Lister; thence northerly along the easterly boundaries of the townships of Lister, Boyd and Papineau to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence northwesterly along the said Interprovincial Boundary to the northeast angle of the Township of Mattawan; thence westerly and southerly along the northerly and westerly boundaries of the said Township to the southwest angle of the Township of Mattawan; thence westerly along the northerly boundaries of the townships of Calvin, Bonfield and East Ferris to the northwesterly angle of the Township of East Ferris; thence southerly and westerly along the westerly boundary of the said Township to its intersection with the westerly boundary of the Territorial District of Nipissing; the towns of Bonfield, Kearney, Mattawa, Parry Sound, Powassan and Trout Creek, and the villages of Burk's Falls, Magnetawan, Rosseau, South River and Sundridge.

THE ELECTORAL DISTRICT OF PERTH—consists of the County of Perth.

THE ELECTORAL DISTRICT OF PETERBOROUGH—consists of the townships of Cavan, Douro, Ennismore, North Monaghan, Otonabee, Smith and South Monaghan, the City of Peterborough, and the villages of Lakefield and Millbrook.

THE ELECTORAL DISTRICT OF PORT ARTHUR—consists of that portion of the Territorial District of Thunder Bay lying within the following limits: Commencing at the southwest angle of the Township of Adrian; thence easterly along the southerly boundaries of the townships of Adrian and Conmee to the southeast angle of the Township of Conmee; thence southerly along the westerly boundary of the Township of Oliver to the southwest angle of the said township; thence easterly along the southerly boundary of the Township of Oliver to, and along the southerly limit of Port Arthur ward in the City of Thunder Bay and the prolongation of the southerly limit of the said Port Arthur ward to its intersection with the centre line of Thunder Bay of Lake Superior; thence south astronomically to the International Boundary between Canada and the United States of America; thence northeasterly along the said International Boundary to a point due south of the centre line of Black Bay of Lake Superior;



thence north astronomically to the centre line of the said Bay; thence north-easterly along the centre line of Black Bay to the easterly prolongation of the northerly boundary of the Township of McTavish; thence westerly along the said prolongation and the northerly boundary of the Township of McTavish to the northwest angle of the said township; thence southerly along the westerly boundary of the Township of McTavish to the northeast angle of the Township of MacGregor; thence westerly along the northerly boundary of the said township to the northwest angle thereof; thence northerly and westerly along the easterly and northerly boundaries of the Township of Gorham to the southeast angle of the Township of Jacques; thence northerly along the easterly boundary of the Township of Jacques to the northeast angle of the said township; thence westerly along the northerly boundaries of the townships of Jacques and Fowler to the northwest angle of the Township of Fowler; thence southerly along the westerly boundary of the Township of Fowler to the northerly boundary of the Township of Forbes; thence westerly along the northerly boundaries of the townships of Forbes and Goldie to the northwest angle of the Township of Goldie; thence southerly along the westerly boundaries of the townships of Goldie, Horne and Adrian to the point of commencement; and McIntyre and Port Arthur wards in the City of Thunder Bay.

THE ELECTORAL DISTRICT OF PRESCOTT AND RUSSELL—consists of the counties of Prescott and Russell and the Township of Cumberland.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—consists of the County of Prince Edward, the townships of Adolphustown, Ernestown, North Fredericksburgh, Richmond and South Fredericksburgh, the Town of Napanee and the Village of Bath.

THE ELECTORAL DISTRICT OF QUINTE—consists of the Township of Sidney, the City of Belleville, the Separated Town of Trenton, and the Village of Frankford.

THE ELECTORAL DISTRICT OF RAINY RIVER—consists of the Territorial District of Rainy River and that portion of the Territorial District of Kenora lying south of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America with the 4th Base Line; thence easterly along the 4th Base Line to the 6th Meridian Line; thence northerly along the 6th Meridian Line to the northwest angle of the Township of Van Horne; thence easterly along the northerly boundary of the said Township to the northwest angle of the Town of Dryden; thence southerly and easterly along the limits of the Town of Dryden to the westerly limit of the Improvement District of Barclay; thence northerly, easterly and southerly along the limits of the Improvement District of Barclay to the northerly boundary of the Township of Zealand; thence easterly along the northerly boundaries of the townships of Zealand, Hartman and MacFie to the northeast angle of the Township of MacFie; thence easterly along a line surveyed by Ontario Land Surveyors Phillips and Benner in 1932, to the easterly boundary of the Territorial District of Kenora; the towns of Fort Frances and Rainy River and the improvement districts of Barclay and Kingsford, but excluding the community of English River.

THE ELECTORAL DISTRICT OF RENFREW NORTH—consists of that portion of the County of Renfrew lying north of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec with the southerly boundary of the Township of Pembroke; thence westerly along the southerly boundary of the Township of Pembroke to the easterly boundary of the Township of Stafford; thence southerly, westerly and northerly following the boundaries of the Township of Stafford to the southeast angle of the Township of Alice; thence westerly along the southerly boundaries of the townships of Alice and Fraser to the southwest angle of the Township of Fraser; thence northerly along the westerly boundary of the Township of Fraser to the westerly boundary of the County of Renfrew; and that portion of the Territorial District of Nipissing lying

east of a line described as follows: Commencing at the southwest angle of the Township of Sabine; thence northerly along the westerly boundaries of the townships of Sabine and Airy to the northwest angle of the Township of Airy; thence easterly along the northerly boundary of the Township of Airy to the southwest angle of the Township of Preston; thence northerly along the westerly boundaries of the townships of Preston, Dickson and Anglin to the northwest angle of the Township of Anglin; thence easterly along the northerly boundary of the Township of Anglin to the southwest angle of the Township of Deacon; thence northerly along the westerly boundaries of the Township of Deacon and the Improvement District of Cameron to the Interprovincial Boundary between the Provinces of Ontario and Quebec; the City of Pembroke, the Town of Deep River, the villages of Chalk River and Petawawa, and the Improvement District of Cameron.

THE ELECTORAL DISTRICT OF RENFREW SOUTH—consists of the Township of West Carlton and that portion of the County of Renfrew lying south of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec with the northerly boundary of the Township of Westmeath; thence westerly and southerly along the northerly and westerly boundaries of the Township of Westmeath to the northeast angle of the Township of Bromley; thence westerly along the northerly boundary of the Township of Bromley to the easterly boundary of the Township of Wilberforce; thence northerly along said easterly boundary to the northeast angle of the Township of Wilberforce; thence westerly along the northerly boundaries of the townships of Wilberforce and North Algona to the easterly boundary of the Township of Hagarty; thence northerly along the easterly boundaries of the townships of Hagarty and Richards to the northerly boundary of the townships of Richards; the towns of Arnprior and Renfrew and the villages of Barry's Bay, Beachburg, Braeside, Cobden, Eganville and Killaloe Station.

THE ELECTORAL DISTRICT OF ST. CATHARINES—consists of that portion of the City of St. Catharines lying east and north of a line described as follows: Commencing at the intersection of the shore of Lake Ontario and Twelve Mile Creek; thence southerly and easterly along Twelve Mile Creek to its intersection with the Old Welland Canal; thence northerly and easterly along the Old Welland Canal to Eastchester Avenue; thence easterly along Eastchester Avenue to Queen Elizabeth Way; thence easterly along Queen Elizabeth Way to the easterly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF SARNIA—consists of the Township of Sarnia, the City of Sarnia and the Village of Point Edward.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—consists of the City of Sault Ste. Marie.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—consists of the townships of Flos, Innisfil, Tiny, Vespra and West Gwillimbury, the City of Barrie, the towns of Bradford and Penetanguishene and the villages of Cookstown and Elmvale.

THE ELECTORAL DISTRICT OF SIMCOE EAST—consists of the townships of Mara, Matchedash, Medonte, Orillia, Oro, Rama and Tay, the City of Orillia, the Town of Midland, and the villages of Coldwater, Port McNicoll and Victoria Harbour.

THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY—consists of the counties of Stormont, Dundas and Glengarry except the City of Cornwall and the Township of Cornwall.

THE ELECTORAL DISTRICT OF SUDBURY—consists of that portion of the City of Sudbury contained in Wards 1, 4, 5, 6, 7 and 8.

THE ELECTORAL DISTRICT OF SUDBURY EAST—consists of that portion of the Territorial District of Sudbury lying south and east of a line described as follows: Commencing at the intersection of the easterly boundary of the Territorial District of Sudbury and the northerly boundary of the Township of Henry; thence westerly along the northerly boundaries of the townships of Henry, Loughrin and Street to the easterly limit of the Town of Nickel Centre; thence northerly and westerly along the limits of the Town of Nickel Centre to the easterly limit of the Town of Capreol; thence northerly, westerly and southerly along the limits of the Town of Capreol to the northerly limit of the Town of Valley East; thence westerly, southerly and easterly along the limits of the Town of Valley East to the northwest angle of the City of Sudbury; thence easterly, southerly and westerly along the limits of the City of Sudbury to the westerly boundary of the Township of Tilton; thence southerly along the westerly boundaries of the townships of Tilton, Halifax and Atlee to the southern boundary of the Territorial District of Sudbury that portion of the City of Sudbury contained in Wards 2, 3 and 9, and the towns of Capreol, Nickel Centre and Valley East.

THE ELECTORAL DISTRICT OF TIMISKAMING—consists of the Territorial District of Timiskaming and that portion of the Territorial District of Nipissing lying north of a line described as follows: Commencing at the southwest angle of the Township of Clement; thence easterly along the southerly boundaries of the townships of Clement, Vogt, Torrington, Olive, Milne, Flett, Angus and Parkman to the boundary between the Provinces of Ontario and Quebec, the towns of Charlton, Cobalt, Englehart, Haileybury, Kirkland Lake, Latchford and New Liskeard, the Village of Thornloe, and the Improvement Districts of Gauthier and Temagami.

THE ELECTORAL DISTRICT OF VICTORIA-HALIBURTON—consists of the County of Victoria and the Provisional County of Haliburton.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—consists of the townships of Wellesley and Woolwich and the City of Waterloo.

THE ELECTORAL DISTRICT OF WELLAND-THOROLD—consists of the City of Welland and the Town of Thorold.

THE ELECTORAL DISTRICT OF WELLINGTON-DUFFERIN-PEEL—consists of the townships of Amaranth, Arthur, East Garafraxa, East Luther, Eramosa, Erin, Maryborough, Nichol, Peel, Pilkington, West Garafraxa and West Luther, the towns of Caledon, Fergus and Mount Forest and the villages of Arthur, Drayton, Elora, Erin, Grand Valley and Shelburne.

THE ELECTORAL DISTRICT OF WELLINGTON SOUTH—consists of the townships of Guelph and Puslinch, and the City of Guelph.

THE ELECTORAL DISTRICT OF WENTWORTH—consists of the Township of Glanbrook and that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of the southerly limit of the City of Hamilton and Upper James Street; thence northerly along Upper James Street to Mohawk Road; thence easterly along Mohawk Road and the easterly prolongation of Mohawk Road to the brow of Hamilton Mountain; thence southerly and northeasterly along the brow of Hamilton Mountain to the easterly limit of the City of Hamilton; thence southerly and westerly along the said city limit to the point of commencement; and the Town of Stoney Creek.

THE ELECTORAL DISTRICT OF WENTWORTH NORTH—consists of the Township of Flam-  
borough and that portion of the City of Hamilton lying south and west of a line described as follows: Commencing at the intersection of the westerly limit of the City of Hamilton and Mohawk Road; thence easterly along Mohawk Road to Upper James Street; thence southerly along Upper James Street to the southerly limit of the City of Hamilton; and the towns of Ancaster and Dundas.



THE ELECTORAL DISTRICT OF WINDSOR-RIVERSIDE—consists of that portion of the City of Windsor (including Peach Island) lying east of a line described as follows: Commencing at the intersection of the Chesapeake and Ohio Railway line and the southerly limit of the City of Windsor; thence northerly and westerly along the Chesapeake and Ohio Railway line and the Pere Marquette Railway line and the Canadian National Railway line to the northerly prolongation of Chilver Road; thence northerly along the northerly prolongation of Chilver Road to the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—consists of that portion of the City of Windsor lying west and north of a line described as follows: Commencing at the intersection of the northerly prolongation of Dougall Avenue and the International Boundary between Canada and the United States of America; thence southerly along said prolongation to and along Dougall Avenue to Cabana Road; thence westerly along Cabana Road to the westerly limit of the City of Windsor.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—consists of that portion of the City of Windsor lying within the following limits: Commencing at the intersection of the northerly prolongation of Dougall Avenue and the International Boundary between Canada and the United States of America; thence southerly along said prolongation to and along Dougall Avenue to Cabana Road; thence westerly along Cabana Road to the westerly limit of the City of Windsor; thence southerly, easterly and northerly along said city limit to the Chesapeake and Ohio Railway line; thence northerly and westerly along the Chesapeake and Ohio Railway line and the Pere Marquette Railway line and the Canadian National Railway line to the northerly prolongation of Chilver Road; thence northerly along the northerly prolongation of Chilver Road to the International Boundary between Canada and the United States of America; thence westerly and southerly along the said International Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF YORK CENTRE—consists of the towns of Markham and Richmond Hill and that part of the Town of Vaughan lying east of Bathurst Street.

THE ELECTORAL DISTRICT OF YORK NORTH—consists of the Township of King, the towns of Aurora, Newmarket and Whitchurch-Stouffville, and that part of the Town of Vaughan lying west of Bathurst Street.

THE ELECTORAL DISTRICT OF ARMOURDALE—consists of that portion of the Borough of North York lying within the following limits: Commencing at the intersection of Steeles Avenue West and Bathurst Street; thence southerly along Bathurst Street to the south boundary of the Borough of North York; thence easterly and northerly following said south boundary to Yonge Street; thence northerly along Yonge Street to Cummer Avenue; thence easterly along Cummer Avenue to Bayview Avenue; thence northerly along Bayview Avenue to Steeles Avenue East; thence westerly along Steeles Avenue East and Steeles Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF BEACHES-WOODBINE—consists of that portion of the City of Toronto lying east of a line described as follows: Commencing at the intersection of the northerly limit of the City of Toronto and Greenwood Avenue; thence southerly along Greenwood Avenue to the Canadian National Railway line; thence easterly along the said railway line to Coxwell Avenue; thence southerly along Coxwell Avenue and the southerly prolongation of Coxwell Avenue to the water's edge of Ashbridges Bay of Lake Ontario; thence south-westerly along the centre line of Ashbridges Bay to the centre line of the channel known as Coatsworth Cut; thence along the centre line of the said channel to the main waters of Lake Ontario.



THE ELECTORAL DISTRICT OF BELLWOODS—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the northerly limit of the City of Toronto and the northerly prolongation of Alberta Avenue; thence southerly along the said prolongation and Alberta Avenue to Davenport Road; thence easterly along Davenport Road to Ossington Avenue; thence southerly along Ossington Avenue to College Street; thence westerly along College Street to Dovercourt Road; thence southerly along Dovercourt Road to Sudbury Street; thence southerly in a straight line to the intersection of King Street West and Atlantic Avenue; thence southerly along Atlantic Avenue and the southerly prolongation of Atlantic Avenue to the Gardiner Expressway; thence easterly along the Gardiner Expressway to its intersection with the southerly prolongation of Shaw Street; thence southerly along the southerly prolongation of Shaw Street to a point in Lake Ontario intersected by the southwesterly prolongation of the centre line of the channel known as the Western Gap; thence northeasterly along the said southwesterly prolongation and the centre line of the Western Gap to the intersection of the said centre line and the southerly prolongation of Tecumseth Street; thence northerly along the said southerly prolongation, Tecumseth Street and Palmerston Avenue to the Canadian Pacific Railway line; thence easterly along the said railway line to Bathurst Street; thence northerly along Bathurst Street to the northerly limit of the City of Toronto; thence westerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DON MILLS—consists of,

- (a) that portion of the Borough of North York lying south of a line described as follows: Commencing at the intersection of Lawrence Avenue East and the westerly limit of the Borough of North York; thence easterly along Lawrence Avenue East to Leslie Street; thence northerly along Leslie Street to York Mills Road; thence easterly along York Mills Road to the Don River; thence southeasterly along the Don River to the Don Valley Parkway; thence southerly along the Don Valley Parkway to Lawrence Avenue East; thence easterly along Lawrence Avenue East to the easterly limit of the Borough of North York;
- (b) Ward 1 of the Borough of East York.

THE ELECTORAL DISTRICT OF DOVERCOURT—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the northerly limit of the City of Toronto and the northerly prolongation of Alberta Avenue; thence westerly and northerly along the limit of the City of Toronto to Harvie Avenue; thence southerly along Harvie Avenue to St. Clair Avenue West; thence easterly along St. Clair Avenue West to Greenlaw Avenue; thence southerly along Greenlaw Avenue to Davenport Road; thence westerly along Davenport Road to Primrose Avenue; thence southerly along Primrose Avenue and Emerson Avenue to Wallace Avenue; thence easterly along Wallace Avenue to Brock Avenue; thence southerly along Brock Avenue to Bloor Street West; thence westerly along Bloor Street West to Brock Avenue; thence southerly along Brock Avenue to Queen Street West; thence easterly along Queen Street West to Elm Grove Avenue; thence southerly along Elm Grove Avenue to King Street West; thence westerly along King Street West to Spencer Avenue; thence southerly along Spencer Avenue and the southerly prolongation of Spencer Avenue to the shore of Lake Ontario; thence easterly along the shore of Lake Ontario to the intersection of the said lake shore and the southerly prolongation of Shaw Street; thence northerly along the said prolongation to the Gardiner Expressway; thence westerly along the Gardiner Expressway to the intersection of the said Expressway and the southerly prolongation of Atlantic Avenue; thence northerly along said prolongation and Atlantic Avenue to King Street West; thence northerly in a straight line to the intersection of Sudbury Street and Dovercourt Road; thence northerly along Dovercourt Road to College Street; thence easterly along College Street to Ossington Avenue; thence northerly along Ossington Avenue to Davenport

Road; thence westerly along Davenport Road to Alberta Avenue; thence northerly along Alberta Avenue and the northerly prolongation of Alberta Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF DOWNSVIEW—consists of that portion of the Borough of North York lying within the following limits: Commencing at the intersection of Steeles Avenue West and Dufferin Street; thence southerly along Dufferin Street to Sheppard Avenue West; thence easterly along Sheppard Avenue West to the easterly boundary of the Downsview Airport; thence southerly, easterly and westerly along the said easterly boundary to Wilson Avenue; thence westerly along Wilson Avenue to Dufferin Street; thence southerly along Dufferin Street to the Macdonald-Cartier Freeway; thence westerly along the said Freeway to the Canadian National Railway line; thence southerly along the said railway line to the southern boundary of the Borough of North York; thence westerly, northerly, easterly and northerly along the boundary of the Borough of North York and continuing northerly along Jane Street to Sheppard Avenue; thence easterly along Sheppard Avenue to Keele Street; thence northerly along Keele Street to Steeles Avenue West; thence easterly along Steeles Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF EGLINTON—consists of that portion of the City of Toronto lying north of a line described as follows: Commencing at the intersection of the east limit of the City of Toronto and Manor Road; thence westerly along Manor Road to Yonge Street; thence northerly along Yonge Street to Eglinton Avenue West; thence westerly along Eglinton Avenue West to the west limit of the City of Toronto.

THE ELECTORAL DISTRICT OF ETOBICOKE—consists of,

- (a) that portion of the Borough of Etobicoke lying north of the Macdonald-Cartier Freeway;
- (b) that portion of the Borough of North York lying west and north of a line described as follows: Commencing at the intersection of Steeles Avenue West and Highway 400; thence southerly along Highway 400 to Finch Avenue West; thence westerly along Finch Avenue West to Islington Avenue; thence southerly along Islington Avenue to the westerly boundary of the Borough of North York.

THE ELECTORAL DISTRICT OF HIGH PARK-SWANSEA—consists of that part of the City of Toronto lying within the following limits: Commencing at the intersection of the westerly limit of the City of Toronto and the shore of Lake Ontario; thence westerly, northerly and easterly following the said city limit to its intersection with the Canadian National Railway line; thence southerly along said railway line to Bloor Street West; thence westerly along Bloor Street West to Dundas Street West; thence southerly along Dundas Street West to Roncesvalles Avenue; thence southerly along Roncesvalles Avenue to Queen Street West; thence westerly along Queen Street West and the westerly prolongation of Queen Street West to the Gardiner Expressway; thence southeasterly along the Gardiner Expressway to Dowling Avenue; thence southerly along the prolongation of Dowling Avenue to the shore of Lake Ontario; thence northwesterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF HUMBER—consists of that portion of the Borough of Etobicoke lying within the following limits: Commencing at the intersection of the Gardiner Expressway and the Humber River; thence westerly along the Gardiner Expressway and Queen Elizabeth Way to Mimico Creek; thence northerly along Mimico Creek to Bloor Street West; thence westerly along Bloor Street West to the Canadian Pacific Railway line; thence southwesterly along said railway line to Kipling Avenue; thence northerly along Kipling Avenue to the Macdonald-Cartier Freeway; thence northeasterly and easterly along said Freeway to the Humber River; thence southerly along the Humber River to the point of commencement.

THE ELECTORAL DISTRICT OF LAKESHORE—consists of that portion of the Borough of Etobicoke lying south of a line described as follows: Commencing at the intersection of the Gardiner Expressway and the Humber River; thence westerly along the Gardiner Expressway and Queen Elizabeth Way to Mimico Creek; thence northwesterly along Mimico Creek to Bloor Street West; thence westerly along Bloor Street West to the Canadian Pacific Railway line; thence southwesterly along said railway line to the westerly boundary of the Borough of Etobicoke.

THE ELECTORAL DISTRICT OF OAKWOOD—consists of that portion of the Borough of York lying east of a line described as follows: Commencing at the intersection of the north boundary of the Borough of York and Keele Street; thence southerly along Keele Street to Eglinton Avenue; thence easterly along Eglinton Avenue to the Canadian National Railway line; thence southerly along the Canadian National Railway line to the northern limit of the City of Toronto.

THE ELECTORAL DISTRICT OF ORIOLE—consists of that portion of the Borough of North York lying within the following limits: Commencing at the intersection of Victoria Park Avenue and Pawnee Avenue; thence westerly along Pawnee Avenue to Cherokee Boulevard; thence westerly in a straight line to the intersection of Shawnee Circle and Finch Avenue East; thence westerly along Finch Avenue East to the Don River; thence southeasterly along the Don River to Leslie Street; thence southerly along Leslie Street to York Mills Road; thence easterly along York Mills Road to the Don River; thence southeasterly along the Don River to Don Valley Parkway; thence southerly along the Don Valley Parkway to Lawrence Avenue East; thence easterly along Lawrence Avenue East to Victoria Park Avenue; thence northerly along Victoria Park Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF PARKDALE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the shore of Lake Ontario and the southerly prolongation of Spencer Avenue; thence northerly along the said prolongation and Spencer Avenue to King Street West; thence easterly along King Street West to Elm Grove Avenue; thence northerly along Elm Grove Avenue to Queen Street West; thence westerly along Queen Street West to Brock Avenue; thence northerly along Brock Avenue to Bloor Street West; thence easterly along Bloor Street West to Brock Avenue; thence northerly along Brock Avenue to Wallace Avenue; thence westerly along Wallace Avenue to Emerson Avenue; thence northerly along Emerson Avenue and Primrose Avenue to Davenport Road; thence easterly along Davenport Road to Greenlaw Avenue; thence northerly along Greenlaw Avenue to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Harvie Avenue; thence northerly along Harvie Avenue to the northerly limit of the City of Toronto; thence westerly along the northerly limit of the City of Toronto to the first Canadian National Railway line west of Union Street; thence southeasterly along the said railway line to Bloor Street West; thence westerly along Bloor Street West to Dundas Street West; thence southerly along Dundas Street West to Roncesvalles Avenue; thence southerly along Roncesvalles Avenue to Queen Street West; thence westerly along Queen Street West and the westerly prolongation of Queen Street West to the Gardiner Expressway; thence southeasterly along the Gardiner Expressway to Dowling Avenue; thence southerly along Dowling Avenue and the southerly prolongation of Dowling Avenue to the shore of Lake Ontario; thence southeasterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF RIVERDALE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the main waters of Lake Ontario and the centre line of the channel known as Coatsworth Cut; thence northwesterly along the centre line of the said channel to the centre line of Ashbridges Bay; thence northeasterly along the centre line of the said Bay to the southerly prolongation of Coxwell Avenue;



thence northerly along the said prolongation and Coxwell Avenue to the Canadian National Railway line; thence westerly along said Railway line to Greenwood Avenue; thence northerly along Greenwood Avenue to the northerly limit of the City of Toronto; thence westerly, northerly and westerly along the said northerly limit to Jackman Avenue; thence southerly along Jackman Avenue to Danforth Avenue; thence easterly along Danforth Avenue to Hampton Avenue; thence southerly along Hampton Avenue to Sparkhall Avenue; thence westerly along Sparkhall Avenue to Broadview Avenue; thence southerly along Broadview Avenue to Gerrard Street East; thence easterly along Gerrard Street East to De Grassi Street; thence southerly along De Grassi Street to Queen Street East; thence easterly along Queen Street East to Carlaw Avenue; thence southerly along Carlaw Avenue and the southerly prolongation of Carlaw Avenue to the shore of Lake Ontario; thence north-easterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF ST. ANDREW-ST. PATRICK—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of Eglinton Avenue West and Bathurst Street; thence southerly along Bathurst Street to the boundary between the City of Toronto and the Borough of York; thence easterly, southerly and westerly along the said boundary to Bathurst Street; thence southerly along Bathurst Street to the Canadian Pacific Railway line; thence westerly along the said railway line to Palmerston Avenue; thence southerly along Palmerston Avenue, Tecumseth Street and the southerly prolongation of Tecumseth Street to the centre line of the channel known as the Western Gap; thence southwesterly along the centre line of the said Channel to the main waters of Lake Ontario; thence southerly and easterly along the shore of Lake Ontario, including the Toronto Islands, to the centre line of the Channel known as the Eastern Gap; thence northwesterly along the centre line of the said Channel to the southerly prolongation of Parliament Street; thence northerly along the said prolongation to the water's edge of Toronto Harbour; thence westerly along the northerly line of Toronto Harbour to the southerly prolongation of York Street; thence northerly along the said prolongation, York Street and University Avenue to Queen's Park Crescent; thence northerly along the easterly side of Queen's Park Crescent to Bloor Street West; thence westerly along Bloor Street West to Spadina Road; thence northerly along Spadina Road to the Canadian Pacific Railway line; thence easterly along said railway line to Avenue Road; thence northerly along Avenue Road to Lonsdale Road; thence easterly along Lonsdale Road to Oriole Parkway; thence northerly along Oriole Parkway to the Canadian National Railway line; thence southeasterly along said railway line to Yonge Street; thence northerly along Yonge Street to Eglinton Avenue; thence westerly along Eglinton Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF ST. DAVID—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the shore of Lake Ontario and the southerly prolongation of Carlaw Avenue; thence northerly along said prolongation and Carlaw Avenue to Queen Street East; thence westerly along Queen Street East to De Grassi Street; thence northerly along De Grassi Street to Gerrard Street East; thence westerly along Gerrard Street East to Broadview Avenue; thence northerly along Broadview Avenue to Sparkhall Avenue; thence easterly along Sparkhall Avenue to Hampton Avenue; thence northerly along Hampton Avenue to Danforth Avenue; thence westerly along Danforth Avenue to Jackman Avenue; thence northerly along Jackman Avenue to the boundary between the City of Toronto and the Borough of East York; thence following said boundary westerly, northerly, easterly and northerly to Manor Road; thence westerly along Manor Road to Yonge Street; thence southerly along Yonge Street to Bloor Street East; thence easterly along Bloor Street East to Parliament Street; thence southerly along Parliament Street and continuing southerly along the prolongation of Parliament Street through the Eastern Channel to the shore of Lake Ontario; thence easterly following said shore to the point of commencement.



THE ELECTORAL DISTRICT OF ST. GEORGE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the prolongation of York Street and the northerly line of Toronto Harbour; thence northerly along said prolongation and York Street and continuing northerly along University Avenue to Queen's Park Crescent; thence northerly along the easterly side of Queen's Park Crescent to Bloor Street West; thence westerly along Bloor Street West to Spadina Road; thence northerly along Spadina Road to the Canadian Pacific Railway line; thence easterly along said railway line to Avenue Road; thence northerly along Avenue Road to Lonsdale Road; thence easterly along Lonsdale Road to Oriole Parkway; thence northerly along Oriole Parkway to the Canadian National Railway line; thence southeasterly along the said railway line to Yonge Street; thence southerly along Yonge Street to Bloor Street East; thence easterly along Bloor Street East to Parliament Street; thence southerly along Parliament Street and the prolongation of Parliament Street to the water's edge of Toronto Harbour; thence westerly along the northerly line of Toronto Harbour to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH CENTRE—consists of that portion of the Borough of Scarborough lying within the following limits: Commencing at the intersection of the southerly prolongation of Markham Road and the shore of Lake Ontario; thence northerly along said prolongation to and along Markham Road to the Canadian National Railway line; thence easterly along said railway line to Scarborough Golf Club Road; thence northerly along Scarborough Golf Club Road to Lawrence Avenue East; thence westerly along Lawrence Avenue East to the Canadian National Railway line; thence southerly along said railway line to Danforth Road; thence northeasterly along Danforth Road to Midland Avenue; thence southerly along Midland Avenue to Kingston Road; thence southwesterly along Kingston Road to the northerly prolongation to Wynnview Court; thence southerly along said prolongation to and along Wynnview Court and continuing southerly along the southerly prolongation of Wynnview Court to the shore of Lake Ontario; thence northeasterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH EAST—consists of that portion of the Borough of Scarborough lying east and south of a line described as follows: Commencing at the intersection of the southerly prolongation of Markham Road and the shore of Lake Ontario; thence northerly along said prolongation to and along Markham Road to the Canadian National Railway line; thence easterly along said railway line to Scarborough Golf Club Road; thence northerly along Scarborough Golf Club Road to Ellesmere Road; thence westerly along Ellesmere Road to Markham Road; thence northerly along Markham Road to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the Borough of Scarborough.

THE ELECTORAL DISTRICT OF SCARBOROUGH-ELLESMERE—consists of that portion of the Borough of Scarborough lying within the following limits: Commencing at the intersection of Eglinton Avenue East and the first Canadian National Railway line east of Kennedy Road; thence northerly along said railway line to Lawrence Avenue East; thence easterly along Lawrence Avenue East to Scarborough Golf Club Road; thence northerly along Scarborough Golf Club Road to Ellesmere Road; thence westerly along Ellesmere Road to Markham Road; thence northerly along Markham Road to the Macdonald-Cartier Freeway; thence westerly along the Macdonald-Cartier Freeway to Birchmount Road; thence southerly along Birchmount Road to Lawrence Avenue East; thence westerly along Lawrence Avenue East to Victoria Park Avenue; thence southerly along Victoria Park Avenue to Eglinton Avenue East; thence easterly along Eglinton Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH NORTH—consists of that portion of the Borough of Scarborough lying north and west of a line described as follows: Commencing at the intersection of Victoria Park Avenue and Lawrence Avenue East; thence easterly along Lawrence Avenue East to Birchmount Road; thence northerly along Birchmount Road to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to the easterly limit of the Borough of Scarborough.

THE ELECTORAL DISTRICT OF SCARBOROUGH WEST—consists of that portion of the Borough of Scarborough bounded on the south by the shore of Lake Ontario, on the west by the west limit of the Borough of Scarborough, on the north by Eglinton Avenue East and on the east by a line described as follows: Commencing at the intersection of Eglinton Avenue East and the first Canadian National Railway line east of Kennedy Road; thence southerly along said railway line to Danforth Road; thence northeasterly along Danforth Road to Midland Avenue; thence southerly along Midland Avenue to Kingston Road; thence southwesterly along Kingston Road to the northerly prolongation of Wynnview Court; thence southerly along said prolongation to and along Wynnview Court and continuing southerly along the southerly prolongation of Wynnview Court to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF WILSON HEIGHTS—consists of that portion of the Borough of North York lying within the following limits: Commencing at the intersection of Steeles Avenue West and Dufferin Street; thence southerly along Dufferin Street to Sheppard Avenue West; thence easterly along Sheppard Avenue West to the easterly boundary of the Downsview Airport; thence southerly, easterly and westerly along the said easterly boundary to Wilson Avenue; thence westerly along Wilson Avenue to Dufferin Street; thence southerly along Dufferin Street to the Macdonald-Cartier Freeway; thence westerly along the said Freeway to the Canadian National Railway line; thence southerly along the said railway line to the southern boundary of the Borough of North York; thence easterly along the boundary of the Borough of North York to Bathurst Street; thence northerly along Bathurst Street to Steeles Avenue West; thence westerly along Steeles Avenue West to the point of commencement.

THE ELECTORAL DISTRICT OF YORK EAST—consists of wards 2, 3 and 4 of the Borough of East York.

THE ELECTORAL DISTRICT OF YORK MILLS—consists of that part of the Borough of North York lying within the following limits: Commencing at the intersection of Steeles Avenue East and Bayview Avenue; thence southerly along Bayview Avenue to Cummer Avenue; thence westerly along Cummer Avenue to Yonge Street; thence southerly along Yonge Street to the North limit of the City of Toronto; thence easterly and southerly following said city limit to Lawrence Avenue East; thence easterly along Lawrence Avenue East to Leslie Street; thence northerly along Leslie Street to the Don River; thence northerly along the Don River to Finch Avenue East; thence easterly along Finch Avenue East to Shawnee Circle; thence easterly in a straight line to the intersection of Cherokee Boulevard and Pawnee Avenue; thence easterly along Pawnee Avenue to Victoria Park Avenue; thence northerly along Victoria Park Avenue to Steeles Avenue East; thence westerly along Steeles Avenue East to the point of commencement.

THE ELECTORAL DISTRICT OF YORK SOUTH—consists of those portions of the Boroughs of York and North York lying within the following limits: Commencing at the intersection of the limit between the City of Toronto and the Borough of York with the Humber River; thence northerly along the Humber River to the Macdonald-Cartier Freeway; thence easterly along the Macdonald-Cartier Freeway to Jane Street; thence southerly along Jane Street to the boundary between the Borough of York and the Borough of North York; thence

southerly, westerly and easterly following said boundary to Keele Street; thence southerly along Keele Street to Eglinton Avenue; thence easterly along Eglinton Avenue to the Canadian National Railway line; thence southerly along said Railway line to the limit between the City of Toronto and the Borough of York; thence westerly and southerly along said limit to the point of commencement.

THE ELECTORAL DISTRICT OF YORK WEST—consists of that portion of the Borough of Etobicoke lying within the following limits: Commencing at the intersection of the Canadian Pacific Railway line and the Westerly boundary of the Borough of Etobicoke; thence northerly, easterly and northerly along said westerly boundary to the Macdonald-Cartier Freeway; thence easterly and northeasterly along said Freeway to Kipling Avenue; thence southerly along Kipling Avenue to the Canadian Pacific Railway line; thence southwesterly along said railway line to the point of commencement.

THE ELECTORAL DISTRICT OF YORKVIEW—consists of that portion of the Borough of North York lying within the following limits: Commencing at the intersection of Steeles Avenue West and Highway 400; thence southerly along Highway 400 to Finch Avenue West; thence westerly along Finch Avenue West to Islington Avenue; thence southerly along Islington Avenue to the westerly boundary of the Borough of North York; thence southerly, easterly and southerly along said westerly boundary to the Macdonald-Cartier Freeway; thence easterly along said Freeway to Jane Street; thence northerly along Jane Street to Sheppard Avenue West; thence easterly along Sheppard Avenue West to Keele Street; thence northerly along Keele Street to Steeles Avenue West; thence westerly along Steeles Avenue West to the point of commencement.

1975, c. 13, Sched.; 1976, c. 6, s. 1.

## CHAPTER 451

### Research Foundation Act

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Governors of the Foundation;
- (b) "Executive Committee" means the Executive Committee of the Board;
- (c) "Foundation" means the Ontario Research Foundation. 1944, c. 53, s. 1.

**2.** The Ontario Research Foundation is continued as a body corporate. 1944, c. 53, s. 2.

Foundation  
continued  
as body  
corporate

**3.** The objects of the Foundation are the carrying on of research, studies and investigations, particularly those having for their objects,

Objects of  
Foundation

- (a) the conservation, development and utilization of the natural resources of the Province;
- (b) the development and utilization of the by-products of any processes involving the treating or using of the mineral, timber or other resources of the Province;
- (c) the development and improvement of methods in the agricultural industry and the betterment, welfare and progress of farm life;
- (d) the mitigation and abolition of disease in animal or vegetable life and the control and destruction of insect or parasitic pests; and
- (e) the improvement and development of industrial materials, products and techniques. 1944, c. 53, s. 3.

**4.—(1)** The affairs of the Foundation shall be managed and its powers may be exercised by a Board of Governors consisting of not more than twenty-five members who shall be appointed by the

Management  
of affairs  
by Board of  
Governors



Lieutenant Governor in Council and the members of the Board are the members of the Foundation.

Resignation

(2) A member of the Board may resign at any time. 1944, c. 53, s. 4.

Term of office

(3) A person who is appointed as a member of the Board shall hold office for a term of five years. 1962-63, c. 126, s. 1, *revised*.

Chairman

**5.**—(1) The Board at each annual meeting shall elect from among its members a chairman and two vice-chairmen who shall hold office until the next annual meeting and until their successors are duly elected and who are eligible for re-election.

Vacancies

(2) Any vacancy occurring in any of such offices during the term of office may be filled by the Board from among its members for the remainder of the unexpired term. 1944, c. 53, s. 5 (1, 2).

Executive Committee

**6.**—(1) There shall be an Executive Committee of the Board consisting of the chairman and vice-chairmen and two other members who shall be elected by the Board from among its members at each annual meeting and who shall hold office until the next annual meeting and until their successors are duly elected and who are eligible for re-election.

Delegation of powers

(2) The Board may delegate all or any of its powers to the Executive Committee and may revoke or amend any such delegation. 1944, c. 53, s. 6, *revised*.

Place of meetings

**7.** Meetings of the Board and of the Executive Committee may be held at such places and times as may be determined in accordance with the by-laws of the Foundation, but the annual meeting of the Board shall be held not later than the 1st day of May in each year. 1944, c. 53, s. 7.

Conduct and administration

**8.** The Board may make by-laws not contrary to the provisions of this Act to regulate the conduct and administration of the affairs of the Foundation in all things and particularly, without limiting the foregoing general power,

(a) to regulate the calling of and the procedure at meetings of the Board and of the Executive Committee; to regulate the time and place for the holding of such meetings respectively; and to fix the respective quorum for the Board and for the Executive Committee;

- (b) to regulate the appointment, functions, powers, duties, remuneration and removal of officers, servants and agents of the Foundation; and
- (c) to establish and regulate the appointment, functions, powers, duties, meetings, quorum and removal of, such technical or advisory committees as the Board may consider advisable. 1944, c. 53, s. 8.

**9.** The chairman, vice-chairmen and members of the Board and of the Executive Committee shall not be paid any remuneration but, if the by-laws of the Foundation so provide, may be paid any reasonable expenses incurred by them in the performance of their duties and section 71 of the *Corporations Act* applies with necessary modifications to the Foundation and to the members of the Board and of the Executive Committee in the same manner and to the same effect as though the Foundation were a company incorporated under Part I of that Act and the members of the Board and of the Executive Committee were directors thereof. 1944, c. 53, s. 9.

Chairman,  
vice-  
chairmen,  
Board,  
Executive  
Committee  
R.S.O. 1980,  
c. 95

**10.** All property and assets, real and personal, rights and privileges owned, held, possessed or enjoyed by the Foundation immediately before the 5th day of May, 1944 continue to be vested in the Foundation for the same estate, title or interest. 1944, c. 53, s. 10.

Property  
and assets  
of present  
Foundation

**11.** The Foundation may,

Powers of  
Foundation

- (a) purchase, lease or otherwise acquire and hold any real property or any estate or interest therein deemed necessary for the purposes of the Foundation;
- (b) take by gift, donation, devise or bequest and hold any real or personal property or any estate or interest therein;
- (c) with the prior approval of the Lieutenant Governor in Council and without the consent of the owner, enter upon, take, use and expropriate any real property or any estate or interest therein considered necessary for its purposes, and the *Expropriations Act* applies;
- (d) construct, maintain and alter any buildings and works considered necessary or convenient for the purposes of the Foundation; and
- (e) when no longer required for the purposes of the Foundation, sell, lease or otherwise dispose of any real property or any estate or interest therein. 1944, c. 53, s. 11, *revised*.

R.S.O. 1980,  
c. 148

Research,  
investiga-  
tions, etc.

**12.** The Foundation may carry on research, investigations, studies and operations for other persons upon such terms and conditions as the Executive Committee may determine, subject to any direction of the Board. 1944, c. 53, s. 12.

Inventions  
and  
discoveries

**13.** The Foundation may purchase or otherwise acquire any invention or discovery or any right therein and may apply for, purchase or otherwise acquire any letters patent of invention or similar protection of the Government of Canada or elsewhere or any license or other right, title or interest in or under any patent or similar protection and may hold, use, exercise, develop, license, assign or otherwise dispose of or turn such invention, discovery, letters patent or protection to account. 1944, c. 53, s. 13.

Scholarships

**14.** The Foundation may establish and administer scholarships to assist in the training of research and scientific workers. 1955, c. 73, s. 1.

Gratuities

**15.** The Foundation may pay gratuities, bonuses and allowances to retired or superannuated officers or servants of the Foundation either out of the general funds of the Foundation or out of any special funds set aside for that purpose and may make payments toward insurance, pension, retirement, sickness and other funds or plans calculated to benefit the officers and employees of the Foundation or their dependants or connections, but no payment shall be made to or for the benefit of the chairman, vice-chairmen or members of the Board or of the Executive Committee. 1944, c. 53, s. 14.

Exemption  
from  
taxation

**16.** The real and personal property, business and income of the Foundation are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. 1944, c. 53, s. 15.

Property of  
Foundation  
not to be  
expropriated

**17.** No real property of the Foundation and no estate or interest therein shall be liable to be entered upon, used, taken or expropriated by any municipal or other corporation or person possessing the right of taking land compulsorily and no power to enter upon, take or expropriate land hereafter conferred shall extend to the real property of the Foundation or to any estate or interest therein unless in the Act conferring the power it is made in express terms to apply thereto. 1944, c. 53, s. 16.

Statutes of  
limitations

**18.** All real property of the Foundation shall, with respect to the application of any statute of limitations, be deemed to have been and to be real property vested in the Crown for the public uses of Ontario. 1944, c. 53, s. 17.

**19.** The funds of the Foundation may be invested as the <sup>Funds</sup> Executive Committee may determine subject to any direction of the Board. 1944, c. 53, s. 18.

**20.** The Board at each annual meeting shall appoint one or <sup>Auditors</sup> more auditors who shall hold office until the next annual meeting and until their successors are duly appointed and the auditor or auditors shall yearly examine the accounts of the Foundation and shall report thereon to the Board. 1944, c. 53, s. 19.

**21.**—(1) The Foundation shall, after the close of each fiscal <sup>Annual</sup> year, file with the member of the Executive Council who is <sup>report</sup> responsible for the administration of this Act an annual report which shall include a financial statement, a description of the work of the Foundation during the previous year and such other information as the Lieutenant Governor in Council may require.

(2) The member of the Executive Council who is responsible for <sup>Tabling</sup> the administration of this Act shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1960-61, c. 89, s. 1.

**22.** The Foundation has power to do all such things as are <sup>Powers of</sup> incidental or conducive to the attainment of its objects. 1944, <sup>Foundation</sup> c. 53, s. 21.





## CHAPTER 452

## Residential Tenancies Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “benefits and obligations” includes all benefits and obligations, regardless of whether they touch and concern the land and regardless of whether they relate to things that were in existence at the time the tenancy agreement was made;
- (b) “caretaker’s unit” means a rental unit used by a person employed as a caretaker, janitor, manager, watchman, security guard or superintendent in respect of the residential complex in which the rental unit is situated;
- (c) “Commission” means the Residential Tenancy Commission referred to in Part VIII;
- (d) “landlord” includes the owner, or other person permitting occupancy of a rental unit, and his heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;
- (e) “mail” means first-class, registered or certified mail;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;
- (g) “mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

(h) “mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

(i) “non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

(i) its activities shall be carried on without the purpose of gain for its members,

(ii) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,

(iii) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and

(iv) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

(j) “prescribed” means prescribed by the regulations made under this Act;

(k) “rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or his agent for the right to occupy a rental unit and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in

respect of his occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing;

- (l) "rent deposit" means a security deposit that section 9 does not prohibit a landlord from requiring or receiving;
- (m) "rental unit" means any living accommodation or site for a mobile home used or intended for use as rented residential premises and includes a room in a boarding house or lodging house;
- (n) "residential complex" means a building, related group of buildings or mobile home park, in which one or more rental units are located and includes all common areas, services and facilities available for the use of residents of the building, buildings or park;
- (o) "security deposit" means money or any property or right paid or given by a tenant to a landlord or his agent or to anyone on his behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the happening of a condition;
- (p) "services and facilities" includes,
  - (i) furniture, appliances and furnishings,
  - (ii) parking and related facilities,
  - (iii) laundry facilities,
  - (iv) elevator facilities,
  - (v) common recreational facilities,
  - (vi) garbage facilities and related services,
  - (vii) cleaning or maintenance services,
  - (viii) storage facilities,
  - (ix) intercom systems,



- (x) cablevision facilities,
- (xi) heating facilities or services,
- (xii) air-conditioning facilities,
- (xiii) utilities and related services,
- (xiv) security services or facilities;

R.S.C. 1970,  
c. N-10  
R.S.O. 1980,  
cc. 209, 339

(q) "subsidized public housing" means a rental unit rented to persons or families of low or modest income at reduced rents by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*, and where the amount of the reduced rent is determined by the income of the tenant;

(r) "tenancy agreement" means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

(s) "tenant" means a person who pays rent in return for the right to occupy a rental unit and his heirs, assigns and personal representatives and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

Idem

(2) For the purposes of this Act, a tenant has vacated the rental unit and the residential complex where the tenancy has been properly terminated and,

- (a) the tenant has left the rental unit and informed the landlord that he does not intend to return; or
- (b) the tenant does not ordinarily live in the rental unit, and the rent he has paid, including any rent deposit if it was applied, is no longer sufficient to meet the tenant's obligation to pay rent.

Idem

(3) For the purposes of this Act, a tenant has abandoned the rental unit and the residential complex where the tenancy has not been properly terminated and,

- (a) the tenant has left the rental unit and informed the landlord that he does not intend to return; or

- (b) the tenant does not ordinarily live in the rental unit, has not expressed an intention to resume living in the rental unit, and the rent he has paid, including any rent deposit if it was applied, is no longer sufficient to meet the tenant's obligation to pay rent. 1979, c. 78, s. 1.

**2.—**(1) This Act applies to rental units in residential complexes and to tenancy agreements, despite any other Act and despite any agreement or waiver to the contrary. Application of Act

(2) Where a provision of this Act conflicts with a provision of any other Act, other than the *Condominium Act*, the provision of this Act applies. Conflict R.S.O. 1980, c. 84

**3.** This Act is binding on the Crown. 1979, c. 78, s. 3. Act binds Crown

**4.** This Act does not apply to, Exemptions from Act

- (a) transient living accommodation provided in a hotel, motel, inn, tourist home, hostel or other similar accommodation;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,
  - (i) the living accommodation is provided primarily to persons under the age of majority, or

- (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households;

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him of services related to, a non-residential business or enterprise carried on in the building or project.
- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit. 1979, c. 78, s. 4.

## PART I

### TENANCY AGREEMENTS

Agreement may be oral, written or implied

**5.—(1)** A tenancy agreement may be made orally or in writing or may be implied.

Term of oral or implied agreement

(2) An oral or implied tenancy agreement for a term or period greater than one year shall be deemed to be a tenancy agreement for one year only.

Standard form of agreement

(3) A written tenancy agreement shall be in the form set out in the Schedule hereto and shall be signed by the parties or their agents.

Where tenancy agreement deemed to be in writing

(4) A tenancy agreement shall be deemed to be in writing where it has been signed by one party or his agent, given to the other party or his agent, and thereafter the tenant is permitted by the landlord to take occupancy of the rental unit.

Agreement deemed to include provisions of standard form

(5) Every tenancy agreement not in the form set out in the Schedule shall be deemed to include the provisions of the form set out in the Schedule and any provision of the

tenancy agreement that is inconsistent with the provisions of the form set out in the Schedule or this Act is void.

(6) The *Short Forms of Leases Act* does not apply to tenancy agreements made under this Act. Non-application of R.S.O. 1980, c. 473

(7) The term or period of a tenancy shall be measured from the date the tenant is entitled to occupy the rental unit under the tenancy agreement. Commencement of tenancy

(8) All tenancy agreements are capable of taking effect at law or in equity from the date fixed for the commencement of the term or period regardless of whether the tenant has occupied the rental unit. Agreements take effect without occupancy

(9) Where, on the application of a tenant, the Commission determines that the tenant was not permitted to occupy the rental unit in accordance with the tenancy agreement, the Commission may make an order requiring the landlord to compensate the tenant for loss suffered as a result of not being permitted to occupy the unit, but nothing in this subsection prevents the tenant from applying to a county or district court or to the Supreme Court for specific performance of the tenancy agreement. 1979, c. 78, s. 5. Remedy where occupancy not given

**6.—**(1) In addition to the benefits and obligations contained in the form of tenancy agreement set out in the Schedule, a landlord and tenant may provide in a written tenancy agreement for other benefits and obligations which do not conflict with this Act, but where an obligation concerns the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord, the obligation cannot be enforced unless it is reasonable in all the circumstances. Additions to standard form

(2) A landlord shall not establish or modify, nor can he enforce, rules concerning the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord unless they are in writing, made known to the tenant and reasonable in all the circumstances. House rules to be reasonable

(3) Unless shown to be otherwise, for the purposes of this section, a rule or obligation is reasonable where it is, Where rule reasonable

(a) intended to,

- (i) promote fair distribution of services and facilities to the occupants of the residential complex,



- (ii) promote the safety or welfare of persons working or residing in the residential complex, or
- (iii) protect the landlord's property from abuse;
- (b) reasonably related to the purpose for which it is intended;
- (c) applicable to all tenants in a fair manner; and
- (d) sufficiently clear in its prohibition, direction or limitation of the tenant's conduct to inform him of what he must do or must not do in order to comply with it.

Determination  
of  
reasonableness

(4) A landlord or a tenant may apply to the Commission to determine whether a rule or obligation is reasonable in all the circumstances.

Where  
compliance  
order not to  
issue

(5) Where the Commission determines that the tenant has breached the obligation imposed by subsection 40 (1) (compliance with additional obligations), no order shall be made under clause 40 (4) (a) or (b) unless the Commission is of the opinion that the breach has resulted in damage beyond ordinary wear and tear to the rental unit or residential complex or unreasonable interference with,

(a) the safety; or

(b) the enjoyment for all usual purposes by the landlord or any tenant or members of their households,

of the residential complex or any rental unit. 1979, c. 78, s. 6.

Accelerated  
rent  
prohibited

**7.—(1)** A tenancy agreement shall not contain any provision to the effect that a breach of the tenant's obligations under the tenancy agreement or this Act results in the whole or any part of the remaining rent becoming due and payable, or results in a specific sum becoming due and payable, and any provision of this kind is void.

Remedy  
where  
accelerated  
rent paid

(2) Where, on the application of a tenant, the Commission determines that any moneys that the tenant has paid to the landlord have been paid under a provision in the tenancy agreement that is void under subsection (1), the Commission shall make an order requiring the landlord to repay to the tenant the moneys so paid. 1979, c. 78, s. 7.

8.—(1) Where a prospective tenant, at the request of a landlord, signs a document, the tenant is entitled to retain a copy of the document that he has signed.

Tenant  
entitled to  
retain copy  
of signed  
document

(2) Where a tenancy agreement is in writing, the landlord shall ensure that a copy of the agreement, signed by the landlord and the tenant, is given to the tenant within twenty-one days after it has been signed by the tenant and given to the landlord.

Delivery  
of copy  
of tenancy  
agreement

(3) Where the copy of the tenancy agreement is not given to the tenant in accordance with subsection (2) then, until the copy is given to the tenant,

Failure to  
deliver  
copy of  
agreement

(a) the landlord's right to enforce the tenant's obligation to pay rent is postponed; and

(b) any obligations of the tenant in addition to those contained in the form of tenancy agreement set out in the Schedule do not apply. 1979, c. 78, s. 8.

9.—(1) A landlord shall not require or receive a security deposit from a tenant other than,

Security  
deposits

(a) in the case of a weekly tenancy, the rent for a period not exceeding one week; or

(b) in the case of a tenancy other than a weekly tenancy, the rent for a period not exceeding one month,

which shall be applied only in payment of the rent for the period immediately preceding the termination of the tenancy.

(2) Subject to subsection (3), a rent deposit may be required only at the commencement of the tenancy.

When rent  
deposit may  
be required

(3) Where there has been a lawful rent increase, a landlord may require the tenant to pay, as an addition to the rent deposit, the amount necessary to increase the deposit to a sum not exceeding the new rent for the period to which the deposit is applicable.

Where rent  
increased

(4) A landlord shall pay annually to the tenant interest on the rent deposit at the rate of 9 per cent per year.

Interest

(5) Where, on the application of a landlord or a tenant, the Commission determines that any sum of money is payable under this section or that a sum of money has been paid

Remedies

in excess of that permitted, the Commission may make an order requiring the payment of money in accordance with its determination. 1979, c. 78, s. 9.

Additional  
charges  
prohibited

**10.**—(1) A landlord shall not require or receive from a prospective tenant any payment, except rent, in respect of the granting of a tenancy, but nothing in this section prevents a landlord from charging a tenant or prospective tenant for improvements to the rental unit requested by the tenant or prospective tenant where the improvements would not ordinarily be the responsibility of the landlord and any charge for the requested improvements shall be deemed not to be a rent increase under this Act.

Remedy

(2) Where, on the application of a tenant or prospective tenant, the Commission determines that the tenant or prospective tenant has made any payment prohibited by subsection (1), the Commission may make an order requiring the landlord to return the payment to the tenant or prospective tenant. 1979, c. 78, s. 10.

Post-dated  
cheques

**11.**—(1) A landlord or a tenancy agreement shall not require the delivery of any post-dated cheque or other negotiable instrument to be used for payment of rent.

Credit cards

(2) A landlord shall not require or accept the payment of rent by means of a credit card. 1979, c. 78, s. 11.

Permission  
to breach  
obligation

**12.** Express permission to breach, or the failure to enforce, an obligation under a tenancy agreement or this Act does not prevent the enforcement of the obligation where another breach occurs. 1979, c. 78, s. 12.

Application of  
R.S.O. 1980,  
c. 232

**13.** To the extent that they are consistent with this Act, sections 38 and 39 of the *Landlord and Tenant Act* (which concern the effects of a tenant's bankruptcy) apply to rental units and tenancy agreements under this Act. 1979, c. 78, s. 13.

## PART II

### CHANGE OF LANDLORD OR TENANT

#### GENERAL

Change of  
landlord,  
benefits and  
obligations  
continue

**14.** Where there has been a change of landlord, all benefits and obligations arising under this Act, and any additional benefits and obligations arising under a written tenancy agreement, bind the new landlord. 1979, c. 78, s. 14.

Change  
of tenant,  
benefits and  
obligations  
continue

**15.** Where there has been an assignment of a tenancy agreement by a tenant, all benefits and obligations arising

under this Act, and any additional benefits and obligations arising under a written tenancy agreement, bind the new tenant. 1979, c. 78, s. 15.

#### ASSIGNMENT AND SUBLETTING

**16.**—(1) A tenant may, subject to subsection (2), transfer <sup>Right to assign or sublet</sup> his right to occupy the rental unit to another person, but the transfer may only be one of the following types:

1. Where the tenant does not intend to return to the rental unit, he may give up all his interest in the rental unit to the other person, in which case the transfer shall be called an assignment.
2. Where the tenant intends to return to the rental unit, he may give the right to occupy the rental unit to the other person for a term ending on a specified date before the end of the tenant's term or period and provide that the tenant will resume occupancy on that date, in which case the transfer shall be called a subletting.

(2) An assignment or subletting is not valid unless, <sup>Consent</sup>

- (a) the landlord has given his written consent, which consent shall not be unreasonably withheld; or
- (b) the Commission has made an order permitting the assignment or subletting to be made without the landlord's written consent.

(3) A landlord shall not make any charge for giving the <sup>Charge for consent</sup> consent referred to in clause (2) (a) except a sum to compensate the landlord for his reasonable expenses arising from the assignment or subletting, not exceeding \$50.

(4) Consent to assign or consent to sublet shall be in the <sup>Form of consent</sup> prescribed form and shall be signed by the landlord or his agent.

(5) An assignment shall be in the prescribed form and shall be signed by the tenant and the new tenant or their agents and, where there is a written tenancy agreement, a copy shall be attached. <sup>Form of assignment</sup>

(6) A subletting agreement shall be in the prescribed form <sup>Form of subletting agreement</sup> and shall be signed by the tenant and the sub-tenant or their



agents and, where there is a written tenancy agreement, a copy shall be attached.

When  
assignment  
or subletting  
takes effect

(7) An assignment or subletting takes effect on the date the new tenant or sub-tenant is entitled to occupancy.

Subsidized  
public  
housing

(8) Subsection (1) does not apply to a tenant of subsidized public housing.

Remedies

(9) Where, on the application of a landlord or a tenant, the Commission determines any question arising under this section, the Commission may make an order,

(a) where the landlord has unreasonably withheld his consent, permitting the assignment or subletting to be made without the landlord's written consent; or

(b) directing the payment of any moneys that are payable by one to the other. 1979, c. 78, s. 16.

Improper  
assignment  
or subletting:  
remedy

**17.—**(1) Where, on the application of a landlord brought within sixty days of his learning of a transfer of occupancy, the Commission determines that there has been a transfer of occupancy that does not comply with, or is not permitted by, section 16, the Commission may make an order evicting the occupant on the earliest reasonable date.

Deemed  
valid  
assignment

(2) Where the landlord has not applied under subsection (1), the transfer of occupancy shall be deemed to have been a valid assignment from the time the new tenant first occupied the rental unit.

Delivery  
of copy of  
tenancy  
agreement

(3) Where a transfer of occupancy has been deemed to be an assignment, the new tenant shall be entitled to demand a copy of the written tenancy agreement, if any, that is applicable to the rental unit.

Failure to  
deliver copy  
of  
agreement

(4) Where a copy of the applicable written tenancy agreement is not given to the new tenant within twenty-one days of the new tenant's demand for it, then, until the copy is given to the new tenant or until the landlord has offered to enter into a new tenancy agreement with him,

(a) the landlord's right to enforce the new tenant's obligation to pay rent is postponed; and

(b) any obligations of the new tenant in addition to those contained in the form of tenancy agreement set out in the Schedule do not apply. 1979, c. 78, s. 17.

**18.** Where there has been an assignment under this Act, Consequences of assignment

- (a) the new tenant is liable to the landlord for any breach of the tenant's obligations under the tenancy agreement or this Act, where the breach relates to the period after the assignment, whether or not the breach began before the assignment;
- (b) the former tenant is liable to the landlord for any breach of the tenant's obligations under the tenancy agreement or this Act, where the breach relates to the period before the assignment;
- (c) the new tenant is entitled to enforce against the landlord any obligation of the landlord under the tenancy agreement or this Act, where the breach of obligation relates to the period after the assignment, whether or not the breach began before the assignment;
- (d) the former tenant is entitled to enforce against the landlord any obligation of the landlord under the tenancy agreement or this Act, where the breach of obligation relates to the period before the assignment; and
- (e) where the former tenant has started a proceeding under this Act before the assignment, and the benefits or obligations of the new tenant may be affected, the new tenant is entitled to join in or continue the proceeding. 1979, c. 78, s. 18.

**19.** Where there has been a subletting under section 16, Consequences of subletting

- (a) the tenant remains entitled to the benefits, and is liable to the landlord for the breaches of the tenant's obligations, under the tenancy agreement or this Act during the term of the subletting;
- (b) the sub-tenant is entitled to the benefits, and is liable to the tenant for the breaches of the sub-tenant's obligations, under the subletting agreement or this Act during the term of the subletting. 1979, c. 78, s. 19.

**20.—(1)** A sub-tenant has no right to occupy the rental unit after the end of the term of the subletting. When sub-tenant must vacate

**(2)** Where, on the application of a tenant or a landlord, the Commission determines that a sub-tenant has continued Remedy against overholding sub-tenant

to occupy the rental unit after the end of the term of the subletting, the Commission may make an order evicting the sub-tenant on the earliest reasonable date.

Deemed  
valid  
assignment

(3) Where a tenant or a landlord has not applied under subsection (2) within sixty days after the end of the term of the subletting and the sub-tenant has continued to occupy the rental unit, a valid assignment to the sub-tenant shall be deemed to have taken place on the date the sub-tenant first occupied the unit under the subletting agreement. 1979, c. 78, s. 20.

#### CHANGE OF LANDLORD

Landlord's  
right to sell,  
mortgage, etc.

**21.**—(1) No sale, mortgage or other dealing with the landlord's interest in the residential complex depends for its validity on the acceptance of the transaction by the tenants of the residential complex.

Person to  
whom rent  
is payable

(2) A tenant may continue, without prejudice, to pay rent to his landlord until he has received written notice that another person has acquired the landlord's right to possession of the residential complex and is attempting to enforce any of the rights of the landlord under the tenancy agreement or this Act, including the right to collect rent.

Where  
tenant  
uncertain

(3) Where a tenant is uncertain about who is entitled to be paid the rent, he may request the Commission to enquire into the matter and where the Commission is unable to ascertain the person entitled to the rent, the Commission may direct the tenant to pay his rent to the Commission until the person entitled to the rent is determined, at which time the rent shall be paid to that person. 1979, c. 78, s. 21.

Consequences  
of change of  
landlord

**22.** Where there has been a change of landlord,

- (a) the new landlord is liable to a tenant for any breach of the landlord's obligations under the tenancy agreement or this Act, where the breach relates to the period after the change of landlord, whether or not the breach began before the change of landlord;
- (b) the former landlord is liable to a tenant for any breach of the landlord's obligations under the tenancy agreement or this Act, where the breach relates to the period before the change of landlord;
- (c) the new landlord is entitled to enforce against a tenant any obligation of the tenant under the tenancy agreement or this Act, where the breach

of obligation relates to the period after the change of landlord, whether or not the breach began before the change of landlord;

- (d) the former landlord is entitled to enforce against a tenant any obligation of the tenant under the tenancy agreement or this Act, where the breach of obligation relates to the period before the change of landlord; and
- (e) where the former landlord has started a proceeding under this Act before the change of landlord, and the benefits or obligations of the new landlord may be affected, the new landlord is entitled to join in or continue the proceeding. 1979, c. 78, s. 22.

### PART III

#### BENEFITS AND OBLIGATIONS

##### SECURITY OF TENURE

**23.**—(1) A tenancy may not be terminated except in accordance with this Act. Restriction on termination of tenancy

(2) A landlord shall not regain possession of a rental unit unless, Restriction on recovery of possession

- (a) a writ of possession has authorized the regaining of possession; or
- (b) the tenant has vacated or abandoned the rental unit. 1979, c. 78, s. 23.

**24.**—(1) Where a tenancy agreement specifies a date for the tenancy agreement to end, the landlord and tenant shall be deemed to have renewed the tenancy agreement on that date as a monthly tenancy with the same benefits and obligations as existed under the former tenancy agreement, subject to a rent increase that complies with section 60 (notice of rent increase). Automatic renewal of tenancy

(2) Subsection (1) applies where, Application of subs. (1)

- (a) the landlord and tenant have not entered into a new tenancy agreement; and
- (b) the tenancy has not been terminated in accordance with this Act. 1979, c. 78, s. 24.



## MUTUAL OBLIGATIONS

Change of  
locks:  
rental unit

**25.—**(1) A landlord or tenant shall not change the locks on any entrance to the rental unit without the agreement of the other party made at the time of the change.

residential  
complex

(2) A landlord or tenant shall not change the locks on any entrance to the residential complex so as to unreasonably interfere with the other's access to the complex.

Remedies

(3) Where, on the application of a landlord or a tenant, the Commission determines that an obligation imposed by this section has been breached, the Commission may make an order,

- (a) requiring the person who breached the obligation to give access to the residential complex or rental unit;
- (b) requiring the person who breached the obligation to not breach the obligation again;
- (c) requiring the person who breached the obligation to compensate the party affected for loss suffered as a result of the breach. 1979, c. 78, s. 25.

Tenant's  
right to  
privacy

**26.—**(1) A landlord shall not enter a rental unit unless he is given the right to do so by this section.

Landlord's  
right to  
enter

(2) A landlord has the right to enter a rental unit, and the tenant shall permit the landlord to enter,

- (a) to perform the landlord's obligations under the tenancy agreement and this Act;
- (b) to inspect the rental unit where the tenant has requested his consent to an assignment or subletting;
- (c) to show the rental unit to prospective tenants after the tenant has given notice to terminate the tenancy, the landlord and tenant have agreed to terminate or the Commission has made an order terminating the tenancy;
- (d) to inspect the rental unit and to permit a mortgagee or prospective mortgagee or an insurer or prospective insurer to inspect the unit where a mortgage or insurance coverage is being arranged or is required to be renewed on the residential complex;

- (e) to inspect the rental unit on the day the tenant is required to vacate the unit to determine if the tenant has fulfilled his obligations under the tenancy agreement and this Act.

(3) A landlord who intends to exercise the right to enter given by subsection (2) shall first give written notice to the tenant at least forty-eight hours before the first time of entry under the notice, specifying the purpose of the entry and the days and the hours during which the landlord intends to enter the rental unit, and those hours must be between 9 a.m. and 9 p.m. Need for notice

(4) Unless the tenant objects to the days and hours set out in the landlord's notice and specifies alternative days and hours that are reasonable in the circumstances, the landlord may enter in accordance with the notice given under subsection (3). Tenant may specify alternative hours

(5) A landlord has the right to enter the rental unit without giving the notice required by subsection (3) where, Entry without notice

- (a) an emergency exists, in which case the tenant shall permit the landlord to enter;
- (b) the tenant consents at the time of entry; or
- (c) the landlord has good reason to believe that the tenant has vacated or abandoned the rental unit.

(6) A landlord has the right to enter a rental unit, and the tenant shall permit the landlord to enter, to show the rental unit to prospective purchasers of the residential complex, Landlord's right to enter to show unit to prospective purchasers of complex

- (a) at times agreed to between the landlord and the tenant; or
- (b) where there is no agreement, on the days and at the hours specified by the Commission on the application of either the landlord or the tenant.

(7) Where, on the application of a landlord or a tenant, the Commission determines that an obligation imposed by this section has been breached, the Commission may make an order, Remedies

- (a) requiring the person who breached the obligation to not breach the obligation again;

- (b) requiring the person who breached the obligation to compensate the affected party for loss suffered as a result of the breach. 1979, c. 78, s. 26.

Duty to  
minimize  
losses

**27.—**(1) Where a landlord or a tenant becomes liable to pay compensation as a result of a breach of the tenancy agreement or this Act, the person entitled to claim the compensation has a duty to take reasonable steps to minimize his losses.

Landlord's  
duty where  
tenant  
abandons

(2) Where a tenant abandons a rental unit, the landlord shall endeavour, in minimizing his losses as required by subsection (1), to re-rent the rental unit as soon as is practicable and at a reasonable rent. 1979, c. 78, s. 27.

#### LANDLORD'S OBLIGATIONS

Landlord's  
responsibility  
to repair

**28.—**(1) A landlord is responsible for providing and maintaining,

- (a) the rental unit;
- (b) the residential complex; and
- (c) all services and facilities promised by the landlord whether or not included in a written tenancy agreement,

in a good state of repair and fit for habitation during the tenancy and for complying with health, safety and maintenance and occupancy standards required by law.

Reduction  
of services,  
etc.

(2) Any substantial reduction in the provision of services and facilities shall be deemed to be a breach of subsection (1).

Knowledge of  
non-repair  
immaterial

(3) Subsection (1) applies regardless of whether any state of non-repair existed to the knowledge of the tenant before the tenancy agreement was entered into.

Remedies

(4) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by this section, the Commission may make an order,

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) authorizing any repair or other action by the tenant that has been taken or is to be taken to remedy

the effects of the landlord's breach and requiring the landlord to pay any reasonable expenses associated with the repair or action;

- (d) requiring the landlord to compensate the tenant for loss that has been or will be suffered as a result of the breach, including any loss that was suffered as a result of an unreasonable delay by the landlord in remedying the effects of the breach;
- (e) terminating the tenancy on a date specified by the Commission where the breach of obligation is so substantial that the continuation of the tenancy would be unfair to the tenant.

(5) A tenant shall give prompt notice to the landlord of any substantial breach of the obligation imposed by subsection (1) that comes to the tenant's attention.

Notice of  
substantial  
breach

(6) Where the landlord does not remedy the breach within ten days, the tenant may pay to the Commission by cash, certified cheque or money order all or part of the rent lawfully required on the subsequent dates specified by the tenancy agreement and the payment of rent to the Commission shall be accompanied by an application to the Commission under this section.

Payment  
of rent to  
Commission

(7) Where the Commission is of the opinion that the tenant had no reasonable grounds to believe that there was a substantial breach of the obligation imposed by subsection (1), the Commission may make an order,

Where tenant  
does not act  
on reasonable  
grounds

- (a) requiring the tenant to compensate the landlord for any additional reasonable expenses incurred by the landlord in collecting rent from the Commission;
- (b) where the tenant persistently diverts rent without reasonable grounds, terminating the tenancy and evicting the tenant on a date specified by the Commission.

(8) Where, based on the obligation imposed by subsection (1), a person claims compensation for personal injury, no compensation shall be awarded unless it is shown that the landlord wilfully or negligently breached the obligation.

Compensation  
for personal  
injury

1979, c. 78, s. 28.

**29.**—(1) A landlord shall not, until the date the tenant vacates or abandons the rental unit, withhold or cause to be withheld the reasonable supply of any vital service, such as heat or fuel or electricity, gas, hot and cold water or other

Duty to not  
withhold  
vital  
services



public utility, that it is his obligation to supply under the tenancy agreement, or deliberately interfere with the supply of a vital service whether or not it is his obligation to supply that service during the tenant's occupancy of the rental unit.

#### Remedies

(2) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by subsection (1), the Commission may make an order,

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) requiring the landlord to compensate the tenant for loss suffered as a result of the breach;
- (d) directing the tenant to pay to the Commission all or part of his rent that would otherwise be payable to the landlord;
- (e) terminating the tenancy on a date specified by the Commission, where the breach of obligation is so substantial that the continuation of the tenancy would be unfair to the tenant.

Notice  
required  
where public  
utility  
to be  
discontinued  
R.S.O. 1980,  
c. 423

(3) Where a corporation, including a municipal corporation, or a public utility commission, that supplies any public utility within the meaning of the *Public Utilities Act* has reason to believe that a building or mobile home park it supplies is a residential complex, the corporation or commission shall not stop the supply from entering the residential complex or any rental unit therein because of a failure to pay the rate or charge due to the corporation or commission unless the corporation or commission, not less than seven days before the day on which the supply is to be stopped, gives notice in writing to the Commission of its intention to do so.

Role of  
Commission  
in preventing  
discon-  
tinuance

(4) Where the Commission receives a notice under subsection (3), or where the Commission is otherwise notified that the supply of a public utility to a residential complex or any rental unit therein has been or is likely to be stopped, and if the Commission after enquiry into the circumstances is of the opinion that the landlord of the residential complex has breached or is likely to breach his obligation to furnish the supply of the public utility to the residential complex, the Commission, after first affording the landlord an opportunity to be heard, may make an order directing any or all of the tenants in the residential complex to pay to the Commission all or part of the rent that would otherwise be payable to the landlord. 1979, c. 78, s. 29.

**30.**—(1) A landlord shall not unreasonably interfere with, Duty to not interfere with safety or enjoyment

(a) the safety; or

(b) the enjoyment for all usual purposes by a tenant or members of his household,

of the rental unit or residential complex.

(2) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by this section, the Commission may make an order, Remedies

(a) requiring the landlord to comply with his obligation;

(b) requiring the landlord to not breach his obligation again;

(c) requiring the landlord to compensate the tenant for loss suffered as a result of the breach;

(d) terminating the tenancy on a date specified by the Commission where the breach of obligation is so substantial that the continuation of the tenancy would be unfair to the tenant. 1979, c. 78, s. 30.

**31.**—(1) A landlord shall not seize the personal property of a tenant for any breach by the tenant of the tenancy agreement or this Act, including the obligation to pay rent. No seizure of tenant's property

(2) Subsection (1) does not apply to a seizure of property when the seizure is made by the sheriff in satisfaction of an order of a court or the Commission. Seizure by sheriff

(3) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by this section, the Commission shall make an order, Remedies

(a) that the personal property be returned;

(b) that the landlord compensate the tenant for any damage done to the property and for the wrongful seizure. 1979, c. 78, s. 31.

**32.**—(1) A landlord shall give notice to his tenants of, Notice of legal name of landlord, etc.

(a) the legal name of the landlord, the landlord's address for the giving of notices or documents and, where there is no agent of the landlord having authority in respect of the residential complex, the landlord's telephone number; and

- (b) the name, address and telephone number of any agent of the landlord having authority in respect of the residential complex.

Posting  
of notice

(2) Where a landlord rents more than one rental unit in the same residential complex and retains possession of part of the complex for the common use of all tenants, he shall fulfil the obligation imposed by subsection (1) by posting up and maintaining posted in a conspicuous place the information required by subsection (1).

Proceedings  
against  
landlord

(3) Any proceeding taken by a tenant may be commenced against the landlord in the name provided under clause (1) (a).

Remedy

(4) Where, on the application of a tenant, the Commission determines that the landlord has breached an obligation imposed by this section, the Commission shall make an order requiring the landlord to comply with his obligation. 1979, c. 78, s. 32.

Rent schedule

**33.**—(1) Every landlord shall maintain and keep available, in the residential complex, for examination at reasonable hours, a schedule showing, for each rental unit located in the residential complex of which he is the landlord, the following information:

- (a) the number of bedrooms;
- (b) the current rent being charged for the unit;
- (c) those services and facilities, accommodations and things included in the current rent for which a separate charge is allocated by the landlord and the amount of each such charge;
- (d) the immediately preceding rent that was charged for the unit;
- (e) those services and facilities, accommodations and things included in the immediately preceding rent for which a separate charge was allocated by the landlord and the amount of each such charge; and
- (f) the date of the last rent increase for the unit.

Posting of  
notice

(2) Where there is more than one rental unit in a residential complex, the landlord shall post up conspicuously and maintain posted a notice advising of the existence of

the schedule and when and where it may be examined by persons having an interest in the matter.

(3) Every landlord shall, at least once in every twelve month period, give to the Commission a copy of the schedule maintained by him under subsection (1). Copy to Commission

(4) The Commission shall keep the schedule received by it under subsection (3) in the region in which the residential complex is situate and shall make the schedule available for examination by any person having an interest in the matter. Schedules to be kept in region

(5) Subsection (3) does not apply to rental units that are exempt from rent review under Part XI. Exception

(6) This section does not apply to a residential complex owned, operated or administered by or on behalf of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof. Government-owned housing

(7) Where a rental unit in a residential complex, other than a complex referred to in subsection (6), is subsidized public housing, the rent charged that is shown on the schedule shall be the total amount of the rent being received by the landlord for that unit. Subsidized public housing

(8) Where, on the application of any person having an interest in the matter, the Commission determines that the landlord has breached an obligation imposed by this section, the Commission shall make an order requiring the landlord to comply with his obligation. 1979, c. 78, s. 33. Remedy

**34.—**(1) A landlord shall comply with additional obligations under the tenancy agreement. Compliance with additional obligations

(2) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by this section, the Commission may make an order, Remedies

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) requiring the landlord to compensate the tenant for loss suffered as a result of the breach;
- (d) authorizing any action by the tenant that has been taken or is to be taken to remedy the effects of the



landlord's breach and requiring the landlord to pay any reasonable expenses associated with the action. 1979, c. 78, s. 34.

Entry by  
political  
canvassers

**35.**—(1) A landlord shall not restrict reasonable access to the residential complex by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, or any office in a municipal government or a school board, for the purpose of canvassing or distributing election material.

Use of  
common  
room

(2) Where a residential complex contains a common room that is available for the recreational use of tenants, and a tenant or group of tenants wishes to use the room for a meeting between tenants of the complex and a holder of, or candidate for, any elected office mentioned in subsection (1), the landlord shall not prohibit the use of the room by reason only of the purpose of the meeting.

Remedy

(3) Where, on the application of a tenant or any other person affected, the Commission determines that the landlord has breached an obligation imposed by this section, the Commission shall make an order requiring the landlord to comply with his obligation. 1979, c. 78, s. 35.

#### TENANT'S OBLIGATIONS

Obligation to  
pay rent

**36.**—(1) A tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the dates specified by the tenancy agreement.

Remedies

(2) Where, on the application of a landlord, the Commission determines that a tenant has failed to pay rent in accordance with subsection (1), the Commission may make an order,

- (a) requiring the tenant to pay the rent owing;
- (b) requiring the tenant to pay his rent on time in the future;
- (c) terminating the tenancy and evicting the tenant on a date not earlier than,
  - (i) where the landlord holds a rent deposit, the last day for which rent has been paid or the fourteenth day following the application to the Commission, whichever is later, or

- (ii) where the landlord does not hold a rent deposit, the fourteenth day following the application to the Commission.

(3) Where the Commission makes an order under clause (2) (a), the Commission may, in determining the amount of rent owing, where it considers it is justified in doing so, take into account reasonable expenses incurred by the tenant to remedy the effects of any breach by the landlord of his obligation under section 28 (landlord's responsibility to repair). Determination of amount of rent owing

(4) Where, before an order is made, the tenant pays the rent due to the landlord or the Commission, the Commission shall not make an order terminating the tenancy for failure to comply with subsection (1). Where payment prevents termination

(5) A tenant shall not withhold the payment of rent except under section 8 or 17 (where landlord fails to give copy of tenancy agreement to tenant) or unless the Commission directs the tenant to pay all or part of his rent to the Commission or unless the tenant pays all or part of his rent to the Commission under subsection 28 (6). Tenant not to withhold rent

(6) A tenant who withholds the payment of rent for a reason referred to in subsection (5) shall be deemed not to be in breach of the obligation imposed by subsection (1). 1979, c. 78, s. 36. Effect of withholding payment of rent

**37.**—(1) A tenant is responsible for the repair of damage to the rental unit and the residential complex, including all services and facilities provided by the landlord, caused by the tenant's wilful or negligent conduct or that of persons who are permitted on the premises by him. Responsibility for repair of damage

(2) Where, on the application of a landlord, the Commission determines that a tenant has breached the obligation imposed by this section, the Commission may make an order, Remedies

- (a) requiring the tenant to comply with his obligation;
- (b) prohibiting the tenant from doing any further damage;
- (c) requiring the tenant to compensate the landlord for loss suffered as a result of the breach;

- (d) authorizing any repair or other action by the landlord that has been taken or is to be taken to remedy the effects of the tenant's breach and requiring the tenant to pay any reasonable expenses associated with the repair or action;
- (e) terminating the tenancy and evicting the tenant on a date specified by the Commission. 1979, c. 78, s. 37.

Duty to not  
interfere with  
safety or  
enjoyment

**38.—(1)** A tenant shall not unreasonably interfere with,

- (a) the safety; or
- (b) the enjoyment for all usual purposes by the landlord or any other tenant or members of their households,

of the residential complex or any other rental unit.

Deemed  
interference  
by tenant

(2) Unreasonable interference by a person permitted by a tenant to enter the residential complex or his rental unit shall be deemed to be unreasonable interference by the tenant.

Remedies

(3) Where, on the application of a landlord, the Commission determines that a tenant has breached the obligation imposed by subsection (1), the Commission may make an order,

- (a) requiring the tenant to comply with his obligation;
- (b) requiring the tenant to not breach his obligation again;
- (c) requiring the tenant to compensate the persons affected for loss suffered as a result of the breach;
- (d) terminating the tenancy and evicting the tenant on a date specified by the Commission.

Landlord to  
investigate  
complaints

(4) Where a tenant informs his landlord that he has been affected by a breach of the obligation imposed by subsection (1), the landlord shall enquire into the complaint and take appropriate action, and the action taken may include the making of an application under subsection (3).

Where tenant  
not satisfied

(5) Where, after receiving a complaint under subsection (4), the landlord does not make an application under subsection (3) and the complaining tenant is not satisfied with the action, if any, that the landlord has taken, the complaining tenant

may give a written notice to that effect to the landlord and the Commission.

(6) Where the Commission receives a notice under sub-  
section (5), the Commission shall enquire into the matter and,  
where it is of the opinion that there would be reasonable  
grounds for an application under subsection (3), shall attempt,  
by whatever means it considers necessary, to resolve the  
complaint by agreement.

Commission  
to enquire  
into matter

(7) Where the Commission is of the opinion that it has  
been unable to resolve the complaint within a reasonable  
time,

Deemed  
application  
under subs. (3)

- (a) an application by the landlord under subsection (3) against the tenant alleged to have breached the obligation imposed by subsection (1) shall be deemed to have been made;
- (b) the landlord, the complaining tenant and the tenant alleged to have breached the obligation are parties to the application; and
- (c) the landlord shall be deemed to have complied with section 98. 1979, c. 78, s. 38.

**39.** Where, on the application of a landlord, the Com-  
mission determines that,

Prompt  
eviction for  
serious breach

- (a) a tenant has breached the obligation not to unreasonably interfere imposed by section 38, and the continuation of the tenancy would be unfair to the other occupants of the residential complex;
- (b) a tenant or a member of his household has caused extraordinary damage to the rental unit, the residential complex or services and facilities provided by the landlord; or
- (c) a tenant was permitted to occupy the rental unit as a result of a promise to pay the first instalment of rent or the rent deposit within a specified time and,
  - (i) failed to do so, or
  - (ii) gave the landlord a cheque or other negotiable instrument for the first instalment of rent or the rent deposit which proved to be worthless,



the Commission may make an order terminating the tenancy and evicting the tenant on the earliest possible date. 1979, c. 78, s. 39.

Compliance  
with  
additional  
obligations

**40.—(1)** A tenant shall comply with rules or obligations under the tenancy agreement, except those that are unenforceable under section 6 (rules to be reasonable).

Responsibility  
for cleanliness

(2) A tenant shall maintain the rental unit and all services and facilities provided by the landlord of which the tenant has exclusive use in a state of ordinary cleanliness.

Overcrowding

(3) A tenant shall not permit a number of persons to occupy the rental unit on a continuing basis that results in the contravention of health, safety or housing standards required by law or in a breach of the tenancy agreement.

Remedies

(4) Where, on the application of a landlord, the Commission determines that a tenant has breached an obligation imposed by this section, the Commission may make an order,

(a) requiring the tenant to comply with his obligation;

(b) requiring the tenant to not breach his obligation again;

(c) requiring the tenant to compensate the landlord for loss suffered as a result of the breach;

(d) authorizing any action by the landlord that has been taken or is to be taken to remedy the effects of the tenant's breach and requiring the tenant to pay any reasonable expenses associated with the action. 1979, c. 78, s. 40.

Illegal  
activities

**41.—(1)** A tenant shall not carry on or permit to be carried on any illegal activity or do or permit the doing of any illegal act in the rental unit or in the residential complex.

Remedies

(2) Where, on the application of a landlord, the Commission determines that a tenant has breached the obligation imposed by this section and that the landlord or another occupant of the residential complex has been adversely affected, or is likely to be adversely affected by a continuation or repetition of the breach, the Commission may make an order,

(a) requiring the tenant to comply with his obligation;

- (b) requiring the tenant to not breach his obligation again;
- (c) terminating the tenancy and evicting the tenant on a date specified by the Commission. 1979, c. 78, s. 41.

**42.**—(1) A tenant of subsidized public housing shall not, <sup>Obligations of public housing tenants</sup>

- (a) knowingly make a significant false statement in his application for accommodation;
- (b) at any time knowingly and significantly misrepresent his income or income-producing assets or that of other persons occupying the rental unit; or
- (c) fail to provide the landlord, within a reasonable time after being required to do so by the tenancy agreement, with a statement of income or income-producing assets or that of other persons occupying the rental unit.

(2) Where, on the application of a landlord, the Commission <sup>Remedy</sup> determines that a tenant has breached the obligation imposed by clause (1) (a) or (b), the Commission may make an order,

- (a) requiring the tenant to compensate the landlord for loss suffered as a result of the breach;
- (b) terminating the tenancy and evicting the tenant on a date specified by the Commission.

(3) Where, on the application of a landlord, the Commission <sup>Idem</sup> determines that a tenant has breached the obligation imposed by clause (1) (c), the Commission may make an order,

- (a) requiring the tenant to comply with his obligation;
- (b) requiring the tenant to not breach his obligation again;
- (c) requiring the tenant to compensate the landlord for loss suffered as a result of the breach. 1979, c. 78, s. 42.

#### ENFORCEMENT OF COMMISSION ORDERS

**43.** Where, on the application of a tenant, the Commission determines that the landlord has failed to obey an order of <sup>Where landlord fails to comply with order</sup>

the Commission or a court concerning the landlord's obligations under the tenancy agreement or this Act, the Commission may make an order,

- (a) directing the tenant to pay to the Commission all or part of his rent that would otherwise be payable to the landlord;
- (b) terminating the tenancy on a date specified by the Commission where the failure to obey the order is so substantial that the continuation of the tenancy would be unfair to the tenant. 1979, c. 78, s. 43.

Where  
tenant fails  
to comply  
with order

**44.** Where, on the application of a landlord, the Commission determines that a tenant has failed to obey an order of the Commission or a court concerning the occupancy of a rental unit or the tenant's obligations under the tenancy agreement or this Act, the Commission may make an order,

- (a) extending the time in which the tenant may comply with the order;
- (b) terminating the tenancy and evicting the tenant on a date specified by the Commission. 1979, c. 78, s. 44.

## PART IV

### TERMINATION WITHOUT FAULT

Agreement  
to  
terminate

**45.** Where a landlord and tenant agree in writing after a tenancy agreement has been made to terminate the tenancy on a specified date, the tenancy is terminated on the date specified. 1979, c. 78, s. 45.

Termination  
by tenant:  
fixed  
term

**46.** Where a tenancy agreement specifies a date for the tenancy agreement to end, the tenant may terminate the tenancy on the date specified in the agreement by giving the landlord a notice of termination not later than thirty days before the termination date. 1979, c. 78, s. 46.

Termination  
by tenant:  
periodic  
tenancy

**47.** Where a tenancy agreement does not specify a date for the tenancy to end, the tenant may terminate the tenancy on the last day of a period of the tenancy by giving the landlord a notice of termination,

- (a) in the case of a weekly tenancy, at least seven days before the termination date; or
- (b) in the case of a tenancy other than a weekly tenancy, at least thirty days before the termination date. 1979, c. 78, s. 47.

**48.** A notice of termination by a tenant shall be in writing and shall,

Contents  
of tenant's  
notice of  
termination

- (a) be signed by the tenant or his agent;
- (b) identify the rental unit to which the notice applies; and
- (c) state the date on which the tenancy is to terminate.  
1979, c. 78, s. 48.

**49.** Where, on the application of a landlord, the Commission determines that there is an agreement to terminate under section 45, or that the tenant has given a written notice of termination, the Commission may make an order,

Enforcement  
of agreement  
or notice to  
terminate

- (a) evicting the tenant on the date specified in the agreement or notice, or on the earliest reasonable date thereafter;
- (b) requiring the tenant to compensate the landlord for the use and occupation of the rental unit, calculated for each day the tenant remains in occupation following the termination of the tenancy.  
1979, c. 78, s. 49.

**50.** Where, on the application of a landlord or a tenant, the Commission determines that,

Shared  
accommo-  
dation

- (a) the landlord and the tenant share a bathroom or kitchen facility; and
- (b) personal differences that have arisen between the landlord and the tenant make the continuation of the tenancy unfair to either of them,

the Commission may make an order terminating the tenancy, and where the landlord is applicant, evicting the tenant, on a date specified by the Commission. 1979, c. 78, s. 50.

**51.—(1)** Where, on the application of a landlord, the Commission determines that the landlord in good faith,

Termination  
by landlord  
for own use  
or where  
sale

- (a) requires possession of a rental unit for the purpose of residence by himself, his spouse, his child or parent, or a child or parent of his spouse; or
- (b) has entered into an agreement of sale of a residential complex and,
  - (i) is required by the agreement of sale to deliver vacant possession of a rental unit to the purchaser, and



- (ii) the purchaser requires possession of the rental unit for the purpose of residence by himself, his spouse, his child or parent, or a child or parent of his spouse,

the Commission may make an order terminating the tenancy and evicting the tenant,

- (c) on the last day of a rent payment period not earlier than sixty days after the date the application is made; or

- (d) at the end of the tenancy agreement,

whichever is later.

Where  
order may be  
refused

(2) The Commission may refuse to make an order terminating a tenancy and evicting the tenant under clause (1) (a) where the applicant's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the applicant to reside in the rental unit.

Early  
termination  
by tenant

(3) Where a tenant receives a copy of an application under subsection (1), he may, at any time before the date specified for termination in the application, terminate the tenancy by,

- (a) giving the landlord not less than ten days notice of termination specifying an earlier date of termination of the tenancy; and
- (b) paying to the landlord on the date the tenant gives notice of termination under clause (a) the proportionate amount of rent due up to the date the earlier termination is specified to be effective, and in determining the proportionate amount of rent due, the tenant is entitled to take into account the amount of any rent deposit he has paid.

Overpayment  
by tenant

(4) Where, on the application of a tenant, the Commission determines that the tenant has terminated the tenancy under subsection (3), the Commission shall make an order requiring the landlord to pay to the tenant any overpayment of rent paid by the tenant, including any rent deposit. 1979, c. 78, s. 51.

Termination  
for  
demolition,  
change of  
use or  
major repairs

**52.**—(1) Where, on the application of a landlord, the Commission determines that the landlord in good faith requires possession of a rental unit for the purposes of,

- (a) demolition;

- (b) changing the use of the rental unit to a use other than that of rented residential premises; or
- (c) making repairs or renovations so extensive as to require a building permit and vacant possession of the rental unit,

and that the landlord has obtained all necessary permits or other authority that may be required, the Commission may make an order terminating the tenancy and evicting the tenant,

- (d) on the last day of a rent payment period not earlier than 120 days after the application is made; or
- (e) at the end of the tenancy agreement,

whichever is later.

(2) The Commission may refuse to make an order terminating a tenancy and evicting the tenant under clause (1) (b) where the applicant's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the applicant to reside in the rental unit. Where order may be refused

(3) Where a tenant receives a copy of an application under subsection (1), he may at any time before the date specified for termination in the application, terminate the tenancy by, Early termination by tenant

- (a) giving the landlord not less than ten days notice of termination specifying an earlier date of termination of the tenancy; and
- (b) paying to the landlord on the date the tenant gives notice of termination under clause (a) the proportionate amount of rent due up to the date the earlier termination is specified to be effective, and in determining the proportionate amount of rent due, the tenant is entitled to take into account the amount of any rent deposit he has paid.

(4) Where, on the application of a tenant, the Commission determines that the tenant has terminated the tenancy under subsection (3), the Commission shall make an order requiring the landlord to pay to the tenant any overpayment of rent paid by the tenant, including any rent deposit. Overpayment by tenant

(5) Where a tenant has received a copy of an application for termination under clause (1) (c) and has indicated in writing to the landlord, before vacating the rental unit, that he wishes to have a right of first refusal to rent the unit as a tenant when the Tenant's right of first refusal

repairs or renovations are completed, the tenant shall have the right of first refusal to rent the unit, at the lowest rent that would be charged to any other tenant for the same unit, provided that the tenant informs the landlord by mail of any change of address.

Remedy where  
right of first  
refusal denied

(6) Where, on the application of a former tenant, the Commission determines that the landlord has deprived the tenant of the benefit of subsection (5), the Commission may make an order requiring the landlord to compensate the tenant for the loss of the benefit. 1979, c. 78, s. 52.

Remedy for  
improper  
termination

**53.**—(1) In addition to liability to a prosecution under section 123 for knowingly furnishing false information to the Commission, where, on the application of a former tenant, the Commission determines that the tenant vacated the rental unit as a result of an application to terminate under section 51 or 52 and that the landlord or, in the case of an application under clause 51 (1) (b), the purchaser, did not in good faith require the rental unit for the purpose specified in the application to terminate, the Commission may make an order,

- (a) requiring the landlord or the purchaser to pay the tenant's reasonable moving expenses to his new accommodation;
- (b) requiring the landlord or the purchaser to compensate the tenant for any additional reasonable expenses incurred by the tenant, including, for a period of up to twelve months, any increased rent that the tenant was obliged to pay as a result of the improper termination.

Presumption

- (2) Unless proven otherwise, it shall be presumed that,
- (a) a landlord, in the case of an application to terminate under clause 51 (1) (a); or
  - (b) a purchaser, in the case of an application to terminate under clause 51 (1) (b),

did not in good faith require the rental unit for the purpose specified in the application to terminate unless the rental unit is occupied in accordance with the purpose specified in the application within ninety days of the date specified for termination in the application. 1979, c. 78, s. 53.

Tenants of  
educational  
institutions,  
employers or  
condominiums

**54.** Where, on the application of a landlord, the Commission determines that,

- (a) a tenant, who as a student or staff member was provided by an educational institution with living accommodation that is not exempt from this Act, has ceased to meet the qualifications required for occupancy of the living accommodation;
- (b) a tenant was an employee of an employer who provided the tenant with a rental unit during his employment and his employment has terminated; or
- (c) a tenancy arose because of or in connection with an agreement of purchase and sale, entered into in good faith, of a proposed unit within the meaning of the *Condominium Act* and the agreement of purchase and sale has been terminated,

R.S.O. 1980,  
c. 84

the Commission may make an order terminating the tenancy and evicting the tenant on a date specified by the Commission. 1979, c. 78, s. 54.

**55.**—(1) Where, on the application of a landlord, the Commission determines that a tenant of subsidized public housing is not in need of subsidized public housing, the Commission may make an order terminating the tenancy and evicting the tenant on a date specified by the Commission.

Tenant not  
in need of  
public  
housing

(2) Where, on the application of a landlord, the Commission determines that,

Tenant in  
need of  
public  
housing

- (a) a tenant of subsidized public housing is not in need of the particular subsidized public housing he occupies; and
- (b) the tenant is in need of subsidized public housing of some kind,

the Commission may make an order terminating the tenancy and evicting the tenant on a date specified by the Commission, but the Commission may refuse to make the order unless the tenant is permitted to occupy another rental unit that is subsidized public housing. 1979, c. 78, s. 55.

**56.** Where, on the application of a federal, provincial or municipal authority, the Commission determines that a rental unit must be vacated in order to comply with an order by a federal, provincial or municipal authority, the Commission may make an order terminating the tenancy

Order of  
government  
authority



and evicting the tenant on a date which is reasonable in all the circumstances. 1979, c. 78, s. 56.

Where rental unit made uninhabitable, etc.

**57.**—(1) Where a tenancy agreement has become impossible to perform because the rental unit or residential complex has been made uninhabitable by fire, flood or other occurrence, or where the tenancy agreement has been otherwise frustrated, the tenancy shall be deemed to have been terminated on the date performance became impossible or the tenancy agreement was otherwise frustrated.

Application of R.S.O. 1980, c. 179

(2) The *Frustrated Contracts Act* applies to a tenancy that has been terminated under subsection (1). 1979, c. 78, s. 57.

Abandonment or surrender

**58.**—(1) Where a tenant abandons or surrenders a rental unit, the tenancy agreement is terminated on the date the rental unit was abandoned or surrendered, but in the case of abandonment the tenant remains liable, subject to section 27 (landlord's duty to minimize losses), to compensate the landlord for loss of future rent that would have been payable under the tenancy agreement.

Compensation for loss of future rent

(2) Where, on the application of a landlord, the Commission determines that a tenant has abandoned a rental unit, the Commission may make an order requiring the tenant to pay to the landlord the compensation for which the tenant is liable by reason of subsection (1). 1979, c. 78, s. 58.

Termination of caretaker's tenancy

**59.**—(1) Despite any other provision of this Act, where a landlord has entered into a tenancy agreement in respect of a caretaker's unit, unless otherwise agreed, the tenancy of the tenant is terminated on the day on which his employment is lawfully terminated and the tenant shall vacate the caretaker's unit not later than one week after his employment is lawfully terminated.

No rent or compensation

(2) A landlord shall not charge or receive any rent or compensation from the tenant in respect of the period of one week mentioned in subsection (1).

Remedy against caretaker who overholds

(3) Where, on the application of a landlord, the Commission determines that a tenant has failed to vacate the premises as required by subsection (1), the Commission may make an order evicting the tenant on the earliest reasonable date. 1979, c. 78, s. 59.

NOTE.—See section 136 for the day of the coming into force of sections 5 to 59.

## PART V

## NOTICE OF RENT INCREASES

**60.**—(1) A landlord shall not increase the rent for a rental unit unless he gives the tenant a notice in the prescribed form setting out his intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, intended to be made not less than ninety days before the end of,

Notice of  
rent  
increase

(a) a period of the tenancy; or

(b) the term of a tenancy for a fixed period.

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Increase  
void where  
no notice

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase is intended to take effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice  
unnecessary  
for new  
tenant

(4) Where a tenancy agreement for a rental unit that is not subject to rent review under Part XI provides that the tenant shall pay all, part of, or any increase in,

Taxes and  
utility charges  
where unit  
not subject  
to rent review

(a) the taxes attributable to the rental unit; or

(b) the utility charges or heating charges attributable to the rental unit,

and the taxes, utility charges or heating charges are increased, the notice required by subsection (1) need not be given and the increase shall be deemed not an increase under this Act.

(5) Unless a tenancy agreement specifically provides otherwise, a promise by a tenant to pay taxes shall be deemed not to include an obligation to pay taxes assessed for local improvements. 1979, c. 78, s. 60.

Taxes deemed  
not to include  
local  
improvement  
charges

**61.**—(1) Where a tenant who has been given a notice of an intended rent increase under section 60 fails to give the landlord proper notice of termination, he shall be deemed to have accepted,

Where tenant  
fails to give  
notice of  
termination

(a) where the amount of the rent increase is not subject to rent review under Part XI,

(i) the amount of the rent increase specified in the notice of the landlord, or

(ii) such other rent increase as may be agreed upon in writing between the landlord and the tenant; or

(b) where the amount of the rent increase is subject to rent review under Part XI, the amount of rent increase that does not exceed the amount allowed under that Part.

Deemed acceptance not to constitute waiver of tenant's rights

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in clause (1) (b) does not constitute a waiver of the tenant's right to take whatever proceedings are available to him under this Act for the review of rent increases. 1979, c. 78, s. 61.

## PART VI

### TENANT'S PERSONAL PROPERTY

Tenant may remove fixtures

**62.**—(1) A tenant may, during the time he occupies the rental unit, remove any property belonging to him which is attached to the rental unit, provided that he repairs, or compensates the landlord for, any damage done to the rental unit that results from the installation or removal of the property.

Disputes

(2) On the application of a landlord or a tenant, the Commission may determine whether a tenant is entitled to remove property under subsection (1) and may make an order,

(a) permitting or prohibiting the removal of property;

(b) requiring the tenant to repair, or compensate the landlord for, any damage done to the rental unit. 1979, c. 78, s. 62.

Abandoned personal property

**63.**—(1) Unless a landlord and tenant have made a specific agreement providing for the storage of personal property, where a tenant leaves personal property in a rental unit or residential complex that he has vacated or abandoned, the landlord may remove the personal property and, on removal, shall store and dispose of the personal property in accordance with this section.

Worthless, etc. property

(2) Where a landlord has good reason to believe that an item of personal property removed under subsection (1),

(a) would be unsanitary or unsafe to store; or

(b) is worthless,

the landlord may dispose of the item.

(3) Where a landlord removes personal property other than property described in subsection (2), he shall, at the earliest reasonable opportunity, give the Commission an inventory in the prescribed form of the property and, where the address of the tenant is known to the landlord, he shall give the tenant a copy of the inventory. Landlord to give inventory

(4) Where, after receiving the inventory, the Commission determines that an item of personal property in the inventory could not be sold for an amount greater than the reasonable cost of removing, storing and selling it, the Commission may permit the landlord to sell or dispose of the item in the manner and subject to the terms and conditions set by the Commission. Property of little value

(5) Property that has not been disposed of or sold under subsection (2) or (4) shall, subject to the direction of the Commission, be stored in a safe place and manner for a period of not less than sixty days. Remaining property to be stored

(6) Where the tenant or owner of an item of personal property stored by the landlord pays the landlord the cost of removing and storing the item, the landlord shall give the item to the tenant or owner and notify the Commission. Where property to be returned

(7) Where no person has taken possession of an item of personal property stored under subsection (5) during the sixty days referred to in that subsection, the Commission may permit the landlord to sell or dispose of the item in the manner and subject to the terms and conditions set by the Commission. Sale of unclaimed property

(8) Where a landlord sells an item of personal property under subsection (4) or (7), he may, subject to the terms and conditions set by the Commission under those subsections, Proceeds of sale

- (a) retain that part of the proceeds of the sale necessary to reimburse him for the reasonable costs of removing, storing and selling the property; and
- (b) retain that part of the proceeds of the sale necessary to satisfy any order for compensation made in his favour by the Commission or a court, where the order was made regarding the tenancy agreement or this Act,

and shall pay the balance to the Commission, who shall hold the balance for one year for the tenant who left the personal property in the rental unit or residential complex.



Report on  
sale

(9) Where a landlord sells an item of personal property under subsection (4) or (7), he shall give to the Commission a written report in the prescribed form regarding the sale and the distribution of the proceeds of the sale.

Unclaimed  
proceeds  
forfeited to  
Crown

(10) Where the Commission does not receive a claim in respect of the balance within the one-year period referred to in subsection (8), the amount not claimed shall be forfeited to the Crown.

Purchaser in  
good faith  
acquires good  
title

(11) A purchaser in good faith of an item of personal property of the tenant sold in accordance with subsection (4) or (7) shall be deemed to have acquired good title to the property, free and clear of any other interest.

Substantial  
compliance  
protects  
landlord

(12) Where a landlord substantially complies with this section, he is not liable to the tenant or any other person for loss suffered by the tenant or other person as a result of the storage, sale or other disposition by the landlord of the abandoned personal property.

Remedies for  
wrongful  
sale, etc.

(13) Where, on the application of a person claiming to be the owner of an item of personal property, the Commission determines that the landlord has wrongfully sold, disposed of or otherwise dealt with the item of personal property, the Commission may make an order,

(a) requiring the landlord to compensate the owner for the wrongful sale, disposition or dealing; or

(b) requiring the landlord to give the property to the owner. 1979, c. 78, s. 63.

## PART VII

### MOBILE HOMES

Tenant's right  
to sell, etc.

**64.**—(1) A landlord shall not restrict in any way the right of a tenant to sell, lease, or otherwise part with the possession of a mobile home owned by the tenant.

Where mobile  
home and site  
both  
transferred

(2) Where a person obtains possession of a mobile home owned by a tenant while it is situate in a mobile home park and also obtains an assignment or subletting under section 16 of the site that is the rental unit, that person shall be entitled to all the benefits of a tenant or sub-tenant in the mobile home park.

Landlord as  
agent for  
sale, etc.

(3) A landlord shall not receive any compensation for acting as the agent of the tenant in any negotiations to sell,

lease or otherwise part with possession of a mobile home situate in a mobile home park, except under a written agency contract, entered into after the decision of the tenant to sell, lease or otherwise part with possession of the mobile home.

(4) Where, on the application of a tenant or any other person affected, the Commission determines that the landlord has breached an obligation imposed by this section, the Commission may make an order, Remedies

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) requiring the landlord to compensate the tenant for loss suffered as a result of the breach. 1979, c. 78, s. 64.

**65.**—(1) A landlord shall not make any charge in respect of, Certain charges prohibited

- (a) the entry of a mobile home into a mobile home park;
- (b) the exit of a mobile home from a mobile home park;
- (c) the installation of a mobile home in a mobile home park;
- (d) the removal of a mobile home from a mobile home park; or
- (e) the granting of a tenancy in a mobile home park,

except a sum to compensate the landlord for his reasonable expenses arising out of the installation or removal of a mobile home.

(2) Where, on the application of a landlord or a tenant, the Commission determines that money is payable to the landlord or to the tenant by reason of subsection (1), the Commission may make an order requiring the money to be paid. 1979, c. 78, s. 65. Remedy

**66.**—(1) Except as provided in this section, a landlord shall not restrict in any way the right of a tenant to purchase goods or services from the person of his choice. Restraint of trade prohibited

Standards  
for  
equipment

(2) A landlord may set reasonable standards for mobile home equipment.

When  
tradesman  
may be  
prohibited  
from entry

(3) Where a tradesman has,

- (a) unduly disturbed the peace and quiet of the mobile home park;
- (b) failed to observe reasonable rules of conduct that have been established by the landlord; or
- (c) violated the traffic rules of the mobile home park,

despite a request by the landlord to discontinue the conduct, the landlord may restrict or prohibit the entry of the tradesman into the mobile home park.

Remedies

(4) Where, on the application of a tenant, the Commission determines that the landlord has breached the obligation imposed by this section, the Commission may make an order,

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) requiring the landlord to compensate the tenant for loss suffered as a result of the breach. 1979, c. 78, s. 66.

Additional  
obligations  
of landlord

**67.—**(1) A landlord is responsible for,

- (a) providing or ensuring the complete removal or disposal of garbage in the mobile home park at least once each week;
- (b) grading and maintaining all roads in the mobile home park so that the roads are in a good state of repair;
- (c) clearing snow from mobile home park roads to maintain, as much as possible, the same width of passage on the roads at all times throughout the year;
- (d) maintaining the plumbing, sewage, fuel and electrical systems in the mobile home park in a good state of repair;
- (e) maintaining the mobile home park grounds and all buildings, structures, enclosures and equipment in-

tended for the common use of the tenants in a good state of repair and cleanliness; and

- (f) the repair of damage to the tenant's property caused by the wilful or negligent conduct of the landlord.

(2) Where, on the application of a tenant, the Commission determines that the landlord has breached an obligation imposed by this section, the Commission may make an order, Remedies

- (a) requiring the landlord to comply with his obligation;
- (b) requiring the landlord to not breach his obligation again;
- (c) authorizing any action by the tenant that has been taken or is to be taken to remedy the effects of the landlord's breach and requiring the landlord to pay any reasonable expenses associated with the action;
- (d) requiring the landlord to compensate the tenant for loss that has been or will be suffered as a result of the breach;
- (e) terminating the tenancy on a date specified by the Commission where the breach of obligation is so substantial that the continuation of the tenancy would be unfair to the tenant and requiring the landlord to pay all or part of the tenant's reasonable expenses in moving his mobile home to another site. 1979, c. 78, s. 67.

**68.**—(1) A tenant who is the owner of a mobile home situate on a rental unit is responsible for maintaining the exterior portion of the mobile home in a good state of repair and cleanliness. Obligations of tenant

(2) Where, on the application of a landlord or a tenant, the Commission determines that a tenant has breached the obligation imposed by this section, the Commission may make an order, Remedies

- (a) requiring the tenant to comply with his obligation;
- (b) requiring the tenant to not breach his obligation again;
- (c) terminating the tenancy and evicting the tenant on a date specified by the Commission. 1979, c. 78, s. 68.



Termination  
by landlord  
for own use  
or for  
demolition

**69.**—(1) Where a landlord of a mobile home park makes an application to the Commission under section 51 or 52, the landlord shall make every reasonable effort to find an alternative site of similar character, convenience and cost to which the tenant may move his mobile home or in which the tenant may purchase, lease or otherwise obtain the use of a mobile home.

Where no  
order to be  
made

(2) The Commission shall not make an order terminating a tenancy in a mobile home park and evicting a tenant under section 51 or 52 unless the Commission is satisfied that the landlord has complied with subsection (1).

Moving  
expenses

(3) Where a tenancy of a site in a mobile home park is terminated under section 30, 51 or 52, the Commission may make an order requiring the landlord to pay all or part of the tenant's reasonable expenses in moving his mobile home to another site. 1979, c. 78, s. 69.

*NOTE.—See section 136 for the day of the coming into force of sections 62 to 69.*

## PART VIII

### RESIDENTIAL TENANCY COMMISSION

Commission  
continued

**70.** The commission known as the Residential Tenancy Commission is continued. 1979, c. 78, s. 70.

Composition  
of  
Commission

**71.** The Commission shall be composed of such number of Commissioners as the Lieutenant Governor in Council determines. 1979, c. 78, s. 71.

Term of  
office

**72.** The Commissioners shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding five years and may be reappointed for further successive terms of five years each. 1979, c. 78, s. 72.

Removal  
for  
cause

**73.**—(1) A Commissioner may be removed from office during his term only for misbehaviour or for inability to perform his duties properly and only if,

- (a) the circumstances respecting the misbehaviour or inability are first inquired into; and
- (b) the Commissioner is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

(2) For the purpose of making an inquiry under sub-section (1), the Lieutenant Governor in Council may appoint a judge of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed has, for that purpose, the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. Inquiry  
R.S.O. 1980,  
c. 411

(3) An order removing a Commissioner from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session. 1979, c. 78, s. 73. Order  
for  
removal

**74.** Each Commissioner shall devote his full time and attention to the work of the Commission. 1979, c. 78, s. 74. Commissioners  
full time

NOTE.—See section 136 for the day of the coming into force of section 74.

**75.**—(1) Each Commissioner shall be paid such remuneration and be afforded such benefits as are fixed by the Lieutenant Governor in Council and shall in addition be reimbursed for his reasonable travelling or out-of-pocket expenses necessarily incurred by him in the discharge of his duties. Remuneration

(2) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to the Commissioners. 1979, c. 78, s. 75. Application of  
R.S.O. 1980,  
cc. 419, 490

**76.** The Lieutenant Governor in Council shall appoint as Appeal Commissioners such number of Commissioners as the Lieutenant Governor in Council determines. 1979, c. 78, s. 76. Appeal  
Commissioners

**77.**—(1) The administration of the affairs of the Commission shall be vested in a Board of Commissioners, to be composed of such Commissioners as the Lieutenant Governor in Council designates. Board  
of  
Commissioners

(2) Five members of the Board of Commissioners, of whom one shall be the Chief Tenancy Commissioner or his designate, constitute a quorum. 1979, c. 78, s. 77. Quorum

**78.**—(1) One of the members of the Board of Commissioners shall be designated by the Lieutenant Governor in Council as Chief Tenancy Commissioner, who shall be chairman of the Board and chief administrative officer of the Commission. Chief  
Tenancy  
Commissioner

Absence or  
illness of Chief  
Tenancy  
Commissioner

(2) Where the Chief Tenancy Commissioner is unable to carry out his duties because of absence or illness, the Minister may appoint another member of the Board of Commissioners to act as Chief Tenancy Commissioner until the Chief Tenancy Commissioner returns to duty, but an appointment under this section shall not be made for a period of longer than six months. 1979, c. 78, s. 78.

Staff

**79.**—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, terms and conditions of employment, salary ranges and other benefits for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, terms and conditions, salary ranges and benefits so approved.

Application of  
R.S.O. 1980,  
cc. 419, 490

(2) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to the employees of the Commission as though the Commission were a commission designated by the Lieutenant Governor in Council under section 28 of the first mentioned Act. 1979, c. 78, s. 79.

Professional,  
technical and  
other  
assistance

**80.** The Commission may engage persons other than those appointed under section 79 to provide professional, technical or other assistance to the Commission and may prescribe the duties and other terms of engagement and provide for payment of the remuneration and expenses of such persons. 1979, c. 78, s. 80.

Duties of  
Commission

**81.** The Commission shall,

- (a) perform the duties assigned to it by or under this Act and shall administer this Act and the regulations;
- (b) periodically review this Act and the regulations and recommend from time to time amendments or revisions thereof;
- (c) advise and assist the public on all residential tenancy matters including referral where appropriate to social services and public housing agencies;
- (d) take an active role in ensuring that landlords and tenants are aware of the benefits and obligations established by this Act;
- (e) periodically prepare and publish a summary of significant decisions of the Commission and the reasons therefor. 1979, c. 78, s. 81.

**82.** All policy guidelines and procedural manuals issued by the Commission which may be used in making determinations under this Act shall be made available for examination by the public. 1979, c. 78, s. 82.

Policy guidelines, etc., available to public

**83.** No action or other proceeding for compensation or damages shall be instituted against the Commission, any Commissioner, or any member of the Commission staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power. 1979, c. 78, s. 83.

Immunity of Commission for acts done in good faith

**84.—**(1) Subject to subsections (3) to (8), the Commission has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Commission.

Exclusive jurisdiction of Commission

(2) The Commission may determine,

Commission may determine application of Act, etc.

(a) whether this Act applies to a particular living accommodation; and

(b) the rental units, common areas, services and facilities included in a particular residential complex.

(3) The Commission shall not make an order for the payment of money where the amount claimed by any party to the application is in excess of \$3,000, but nothing in this subsection prevents the Commission from arbitrating a dispute and enforcing a decision under section 85 or directing the payment of any rent to the Commission in respect of an amount in excess of \$3,000.

No order where amount claimed by party over \$3,000

(4) Where, under this Act, a person claims a sum of money in excess of \$3,000, he may institute proceedings therefor in any court of competent jurisdiction.

Court jurisdiction

(5) Where, under subsection (4), proceedings are instituted in a county or district court, the court may, where the sum of money claimed is within the monetary jurisdiction of the court in a contract action, hear and determine the matter.

County or district court

(6) Despite the institution of proceedings in court for the recovery of money, unless the court stays proceedings before the Commission on the grounds that it would not be practicable or would be unfair to any party to continue the proceedings before the Commission, which stay the court is hereby empowered to make, the Commission may hear and determine, and may make an order respecting, all aspects of the

Commission proceedings not ordinarily stayed



matters in dispute that do not depend on the determination of the claim for money.

Commission  
entitled to  
be heard  
before stay  
ordered

(7) The court shall not order a stay of proceedings before the Commission under subsection (6) without first affording the Commission an opportunity to be heard and to make representations to the court on the matter.

Court  
jurisdiction  
where  
Commission  
proceedings  
stayed

(8) Where the court orders that proceedings before the Commission be stayed, the court may hear and determine all matters in dispute and may exercise all of the authority of the Commission in that regard and may make any order or decision that the Commission might have made. 1979, c. 78, s. 84.

Arbitration by  
Commission

**85.**—(1) Where a dispute concerning a residential tenancy is not within the jurisdiction of the Commission, the Commission may, with written consent of all parties to the dispute, arbitrate the dispute and in that case the decision of the Commission is final and binding on all parties to the dispute.

Enforcement  
of decision

(2) The decision of the Commission under subsection (1) shall be deemed to be an order of the Commission for the purposes of enforcement.

Non-applica-  
tion of  
R.S.O. 1980,  
c. 25

(3) Where the Commission acts as arbitrator under subsection (1), the *Arbitrations Act* does not apply. 1979, c. 78, s. 85.

Minister may  
establish  
regions

**86.** The Minister may, by order, establish regions in Ontario for the purposes of this Act. 1979, c. 78, s. 86.

Proceedings  
in region

**87.** An application to the Commission may only be made, and all proceedings before the Commission shall be held, in the region in which the residential complex in question is situate, unless the parties otherwise agree in writing or the Commission otherwise directs. 1979, c. 78, s. 87.

Payment of  
Commission's  
expenses

**88.** All expenses incurred and expenditures made by the Commission in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature. 1979, c. 78, s. 88.

Commission  
may charge  
fee for  
copies of  
documents,  
etc.

**89.** The Commission may charge a fee in the prescribed amount for furnishing to any person, at his request, copies of forms, notices or documents filed with or issued by the Commission, including policy guidelines and procedural manuals. 1979, c. 78, s. 89.

**90.** The accounts of the Commission shall be audited by the Provincial Auditor or under his direction by an auditor appointed by the Lieutenant Governor in Council for that purpose, and the salary and remuneration of the auditor so appointed shall be paid by the Commission as part of its administrative expenses. 1979, c. 78, s. 90.

Audit of  
Commission's  
accounts

**91.**—(1) The Commission shall at the close of each year file with the Minister an annual report upon the affairs of the Commission.

Annual  
report

(2) The Commission shall make such further reports to the Minister and provide him with such information as the Minister may from time to time require.

Further  
reports

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session. 1979, c. 78, s. 91.

Tabling of  
reports

## PART IX

### PROCEDURE

#### GENERAL

**92.** The Commission shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter. 1979, c. 78, s. 92.

Commission  
to adopt  
expeditious  
procedures

**93.**—(1) Every decision of the Commission shall be upon the real merits and justice of the case.

Decision to  
be on merits  
and justice

(2) In determining the real merits and justice of the case, the Commission shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

Commission  
to ascertain  
substance of  
transactions  
and  
activities,  
etc.

(a) may disregard the outward form of the transactions or the separate corporate existence of the participants; and

(b) may have regard to the pattern of activities relating to the residential complex. 1979, c. 78, s. 93.

**94.** The offices of the Commission shall operate at times convenient to the public, including, where appropriate, evenings, statutory holidays and week-ends. 1979, c. 78, s. 94.

Commission  
to operate at  
convenient  
times

MAKING OF APPLICATIONS AND  
GIVING OF NOTICES

Who may  
make  
application

**95.**—(1) A person may make an application to the Commission as a landlord or as a tenant, provided he was a landlord or a tenant at the time the conduct giving rise to the application occurred.

Representa-  
tive actions

(2) Where more than one person has a common interest in respect of an application to the Commission, the Commission may authorize one or more of those persons to represent all those persons and any order made by the Commission may be made applicable to all. 1979, c. 78, s. 95.

Form of  
application

**96.**—(1) An application to the Commission shall be made in the prescribed form and shall be signed by the person making the application or his agent.

Where name  
of occupant  
not known

(2) Where an application is brought against an occupant and the name of the occupant is not known to the person bringing the application, the name of the occupant may be shown in the application as "occupant" and any proceedings may be taken against, and all orders shall be binding on, the person occupying the rental unit as if the occupant had been correctly named.

Where name  
of landlord  
not known

(3) Where an application is brought against a landlord and the name of the landlord is not known to the person bringing the application, the name of the landlord may be shown in the application as "landlord" and any proceedings may be taken against, and all orders shall be binding on, the landlord as if he had been correctly named. 1979, c. 78, s. 96.

Extension of  
time for  
application  
or appeal

**97.** The Commission may, whether or not the time for making an application to, or filing a notice of appeal with, the Commission has expired and where it is of the opinion that it would not be unfair to do so, extend the time for the making of the application to, or the filing of the notice of appeal with, the Commission. 1979, c. 78, s. 97.

Landlord  
must give  
copy of  
application to  
tenant, etc.

**98.**—(1) Where a landlord makes an application to the Commission, the landlord shall promptly give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

Tenant must  
give copy of  
application to  
landlord, etc.

(2) Where a tenant makes an application to the Commission, the tenant shall promptly give a copy of the application to the

landlord, and, where the application is made under section 20 (overholding sub-tenant) or 68 (tenant's obligation to repair mobile home), to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

(3) Where a person other than a landlord or a tenant makes an application to the Commission, the person making the application shall promptly give a copy of the application to the landlord and any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application. Other applicant must give copy of application to landlord, etc.

(4) The Commission shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Commission shall be deemed to be compliance with this section. 1979, c. 78, s. 98. Commission may give written directions

**99.**—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by, Method of giving notice, etc.

(a) handing it to the person, or,

(i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or

(ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;

(b) leaving it in the mail box where mail is ordinarily delivered to the person; or

(c) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing, excluding Saturdays and holidays. Where notice given by mail

(3) Despite the other provisions of this section, the Commission may, in writing, direct a notice or document to be given in any other manner. Commission may give written directions

(4) Despite the other provisions of this section, a notice or document shall be deemed to have been validly given Actual notice is sufficient



where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended. 1979, c. 78, s. 99.

Parties to  
application

**100.** The parties to an application are the person making the application, any person entitled to receive a copy of the application and any person added as a party by the Commission. 1979, c. 78, s. 100.

Changing  
parties;  
amending  
applications

**101.** Where, in any proceedings under this Act, the Commission is of the opinion that,

- (a) a person who should have been included as a party has not been included as a party or that a party has been incorrectly named, the Commission shall, unless it would be unfair to do so, require that the person be substituted or added as a party to the proceedings, or be correctly named;
- (b) a person who has been included as a party should not be included as a party, the Commission shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application is justified and fair, the Commission may direct the application be amended accordingly. 1979, c. 78, s. 101.

#### PROCEDURE OF COMMISSION

Commission  
to mediate

**102.—(1)** Where an application has been made to the Commission, other than an application under section 126 (whole building rent review), the Commission shall inquire into the matter and shall assist the parties to the proceeding in attempting to settle the matter by agreement.

Frivolous or  
vexatious  
applications,  
etc.

(2) The Commission may refuse to accept any application or to continue any proceeding, where in its opinion, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Withdrawing  
application

(3) An applicant may withdraw an application at any time before an order is made, but where the application is made under section 126, the application may only be withdrawn with the consent of the Commission. 1979, c. 78, s. 102.

Decision  
to hold  
hearing

**103.—(1)** Where an application is made under section 126 or where the Commission has enquired into the matter and is of the opinion that,

- (a) it is unlikely that the parties to a proceeding will be able to settle the matter by agreement; or
- (b) the urgency of having the matter resolved requires that a determination be made,

the Commission shall notify the parties and hold a hearing.

(2) A hearing under subsection (1) shall be held before a Commissioner and the Commissioner may exercise any of the powers of the Commission and an order of the Commissioner shall be deemed to be the order of the Commission.

Hearing to  
be before  
one  
Commissioner

(3) A Commissioner is not disqualified from holding a hearing and determining a matter by reason only of the fact that,

Commissioner  
not disqualified  
by reason of  
mediating,  
etc.

- (a) he attempted to assist the parties to the proceeding in settling the matter by agreement; or
- (b) he took part in an inquiry or inspection related to the dispute. 1979, c. 78, s. 103.

**104.**—(1) Where several different applications have been made to the Commission, and the Commission is of the opinion that it would be appropriate to determine the issues raised by the applications together, the Commission may hear and determine the issues in dispute at a common hearing.

Issues  
may be  
heard  
together

(2) Where the Commission is of the opinion that it would be appropriate to deal with some of the issues raised by an application at separate hearings, the Commission may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues. 1979, c. 78, s. 104.

Issues  
may  
be heard  
separately

**105.**—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Commission in the exercise of a statutory power of decision.

Application of  
R.S.O. 1980,  
c. 484

(2) The giving to a party of a copy of an application to the Commission shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*. 1979, c. 78, s. 105.

Deemed  
compliance

**106.** All parties to a proceeding under this Act are entitled to examine, and the Commission shall make available for examination, all material filed with the Commission relevant to the proceeding. 1979, c. 78, s. 106.

Parties  
may examine  
material

Commission  
to question  
parties, etc.

**107.** At the hearing, the Commission shall question the parties who are in attendance at the hearing and any witnesses, with a view to determining the truth concerning the matters in dispute. 1979, c. 78, s. 107.

Commission  
may  
investigate, etc.

**108.** The Commission may, before or during a hearing,

- (a) conduct any inquiry or inspection it considers necessary; and
- (b) question any person, by telephone or otherwise, concerning the dispute. 1979, c. 78, s. 108.

Commission  
may consider  
all relevant  
information

**109.** In making its determination, the Commission may consider any relevant information obtained by the Commission in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it. 1979, c. 78, s. 109.

Making of  
order  
applied for

**110.—(1)** After holding a hearing, and having regard to all the circumstances, where the Commission is satisfied that one or more orders that have been applied for is justified, it shall make that order or those orders.

Making of  
other orders

**(2)** After holding a hearing and having regard to all the circumstances, where the Commission is satisfied that another order that could have been applied for is justified, it may make that other order.

Terms and  
conditions

**(3)** The Commission may include in any order terms and conditions it considers proper in all the circumstances. 1979, c. 78, s. 110.

#### MATTERS RELATED TO COMMISSION ORDERS

Where  
unfairness  
will prevent  
eviction

**111.** Where an application has been made by a landlord for an eviction order, the Commission shall refuse to make the eviction order where the Commission is satisfied, having regard to all the circumstances, that it would be unfair to evict the tenant. 1979, c. 78, s. 111.

Compensation  
for  
overholding

**112.—(1)** A landlord is entitled to compensation for the use and occupation of a rental unit by a tenant after his tenancy has been terminated.

Eviction  
order to include  
order for  
compensation  
for overholding

**(2)** Where the Commission makes an eviction order, it shall make an order requiring the tenant to compensate the

landlord for the use and occupation of the rental unit calculated for each day the tenant remains in occupation following the termination of the tenancy.

(3) Where a landlord obtains an order under subsection (2) or section 49 requiring a tenant to compensate him for the use and occupation of the rental unit, the landlord may, within thirty days of the date the tenant ceased to occupy the rental unit, file with the Commission a copy of the order and a statement in the prescribed form setting out the number of days that the tenant remained in occupation following the termination of the tenancy, and the Commission shall calculate the final amount due under the order and shall add a statement to the order setting out the final amount, which statement shall comprise a part of the order.

Settlement  
of order  
for  
compensation  
for  
overholding

(4) The acceptance by the landlord of arrears of rent or compensation for use or occupation of the rental unit after a tenancy has been terminated does not operate as a waiver of the termination or as a reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree.

Payment  
by overholding  
tenant does  
not  
reinstate  
tenancy

(5) Where a tenant does not give up occupancy of the rental unit after his tenancy has been terminated and a person brings proceedings against the landlord to enforce a right to occupy the rental unit occupied by the tenant, the tenant is liable to the landlord for any compensation that the landlord is required to pay as a result of the tenant's failure to give up occupancy, and the landlord may add the tenant as a third party in the proceedings. 1979, c. 78, s. 112.

Liability of  
overholding  
tenant

**113.**—(1) Where under section 29 (vital services) or 43 (failure of landlord to comply with Commission order) the Commission directs a tenant to pay to the Commission all or part of his rent that would otherwise be payable to the landlord or where a tenant has paid all or part of his rent to the Commission under subsection 28 (6) (landlord's responsibility to repair), the Commission may pay from the rent it receives such amount as the Commission considers necessary for the following purposes:

Use of  
money where  
rent paid to  
Commission

1. To pay the tenant for any action authorized under clause 28 (4) (c) or clause 67 (2) (c).
2. To restore, or prevent the discontinuance of, the supply of a vital service.

(2) Where the rent received by the Commission exceeds the sum of,

Excess  
paid to  
landlord

- (a) any amount paid under subsection (1); and



- (b) the amount that in the opinion of the Commission is necessary to ensure compliance by the landlord with an order of the Commission or a court,

the Commission shall pay the excess to the landlord.

Periodic  
review of  
need to  
hold rent

(3) Where the Commission is holding rent to ensure compliance by the landlord with an order of the Commission or a court, the Commission shall, on the request of the landlord, or in any event not less often than once a month, review the necessity of continuing to hold the rent.

Payment of  
interest to  
Treasurer

(4) Interest earned on moneys held by the Commission shall be paid to the Treasurer of Ontario. 1979, c. 78, s. 113.

*NOTE.—See section 136 for the day of the coming into force of sections 111 to 113.*

Where tenant  
may deduct  
compensation  
from rent

**114.**—(1) Where the Commission makes an order requiring a landlord to compensate a tenant, the Commission may make an order that the tenant recover the compensation by deducting a specified sum from his rent for a specified number of rent payment periods.

Where  
compensation  
to landlord may  
be paid in  
instalments

(2) Where the Commission makes an order requiring a tenant to compensate a landlord, the Commission may make an order permitting the tenant to pay the compensation by paying a specified sum together with his rent for a specified number of rent payment periods.

Lump sum  
payments

(3) The Commission may, on the application of the landlord or the tenant, rescind an order made under subsection (1) or (2), and may order that any compensation still owing be paid in a lump sum. 1979, c. 78, s. 114.

Enforcement  
of order for the  
payment of  
money

**115.**—(1) A certified copy of an order of the Commission for the payment of money may be filed with the Supreme Court or with a county or district court and, on being filed, the order has the same force and effect and all proceedings may be taken on it, as if it were a judgment of that court.

Variation  
of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

(a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

(b) if the order or decision varies the order previously made, the order previously made as so varied may

be enforced in a like manner as an order or decision filed under subsection (1). 1979, c. 78, s. 115.

**116.**—(1) An order evicting a tenant, sub-tenant or occupant may be filed with the county or district court and, on being filed, has the same force and effect and all proceedings may be taken on it, as if it were an order of that court, and the clerk of the court shall issue a writ of possession. When writ of possession may issue

(2) An employee of the Commission may be appointed as a sheriff's officer and may obtain the assistance of one or more police officers for the purpose of enforcing writs of possession. 1979, c. 78, s. 116. Enforcement of writ of possession

*NOTE.—See section 136 for the day of the coming into force of section 116.*

#### APPEALS

**117.**—(1) Any party to an application who took part in the hearing may, within fifteen days of receiving the decision or order of a Commissioner, appeal the decision or order by filing a notice of appeal in the prescribed form with the Commission and promptly giving a copy of the notice, Appeal from order of Commissioner

(a) where a tenant is appealing a decision or order resulting from an application under section 126 (whole building rent review), to the landlord;

(b) where a landlord is appealing a decision or order resulting from an application under section 126, to the tenant of each rental unit in respect of which the appeal is brought; and

(c) in all other cases, to all other parties to the application who took part in the hearing.

(2) Despite the fact that a person did not appear at the hearing, he may apply to a member of the Board of Commissioners for permission to appeal and the member of the Board may, in his discretion, permit the person to appeal upon such terms and conditions as the member of the Board considers just. Permission to appeal

(3) The parties to the appeal are the person appealing, any person entitled to receive a copy of the notice of appeal and any person added as a party by the Commission. Parties to appeal

(4) Where a notice of appeal is filed under subsection (1), the Commissioner who made the order or decision being appealed Reasons to be given by Commissioner

shall, where he has not already done so, prepare reasons for the decision or order and give a copy of the reasons to each party to the appeal.

Findings  
of fact  
considered  
true unless  
objection  
made

(5) The findings of fact set out in the reasons for the decision or order being appealed may be taken to be true unless, within seven days of the filing of the notice of appeal or receipt of a copy thereof, or within seven days of receiving the reasons, whichever is later, a party to the appeal files a statement in the prescribed form with the Commission and gives a copy of the statement to all other parties to the proceeding setting out,

- (a) the findings of fact set out in the reasons with which he disagrees; and
- (b) any facts he intends to prove at the hearing of the appeal that were not set out in the reasons.

Limitation of  
evidence on  
appeal

(6) At the hearing of the appeal, the introduction of evidence shall, unless the appeal panel otherwise directs, be limited to proving facts,

- (a) with which a party to the appeal has disagreed in a statement filed under subsection (5); or
- (b) which a party to the appeal has stated, in a statement filed under subsection (5), he intends to prove.

Composition  
of appeal  
panel

(7) The appeal shall be heard before an appeal panel composed of two Appeal Commissioners and one member of the Board of Commissioners, none of whom took part in the making of the decision or order being appealed.

Powers of  
appeal panel

(8) After the hearing of the appeal, the appeal panel may,

- (a) affirm the decision or order of the Commissioner; or
- (b) make any decision or order that a Commissioner is authorized to make under this Act, and for such purposes the appeal panel may substitute its opinion for that of the Commissioner.

Appeal panel  
may rehear  
appeal

(9) The appeal panel may decide on its own motion to rehear an appeal where in its opinion there has been a serious error, and at such rehearing, the appeal panel may confirm, rescind, amend or replace any decision or order previously made.

Order of appeal  
panel deemed  
order of  
Commission

(10) A decision or order of the appeal panel shall be deemed to be the decision or order of the Commission. 1979, c. 78, s. 117.

**118.**—(1) Any party to an appeal under section 117 may, <sup>Appeal to Divisional Court</sup> on a question of law, appeal a decision or order of the Commission to the Divisional Court.

(2) An appeal under subsection (1) shall be by way of <sup>Appeal to be by stated case</sup> stated case and the Commission shall, after service of the notice of appeal in accordance with the rules of court, upon the request of the person appealing, state a case in writing to the Divisional Court setting out the material facts found by the Commission and the grounds on which the decision or order is questioned.

(3) The Commission is entitled to be heard, by counsel or <sup>Commission entitled to be heard on appeal</sup> otherwise, upon the argument of an appeal under this section.

(4) Where a case is stated under subsection (2), the Divisional <sup>Powers of Divisional Court</sup> Court shall hear and determine the appeal and may,

- (a) affirm, rescind, amend or replace the decision or order;
- (b) cause the case to be sent back to the Commission for amendment and deliver judgment after it has been amended; or
- (c) remit the matter to the Commission with the opinion of the Divisional Court,

and may make,

- (d) any other order in relation to the matter that it considers proper; and
- (e) any order, with respect to costs, that it considers proper. 1979, c. 78, s. 118.

**119.** Unless otherwise ordered by,

<sup>Certain orders not stayed pending appeal</sup>

- (a) where an appeal is taken under section 117, a member of the Board of Commissioners; or
- (b) where an appeal is taken under section 118, a judge of the Divisional Court,

an appeal from an order made under any of the following provisions does not stay the order pending the hearing of the appeal:



1. Subsection 17 (1).
2. Subsection 20 (2).
3. Clause 25 (3) (a).
4. Clause 28 (4) (c) or (e).
5. Clause 29 (2) (a), (d) or (e).
6. Subsection 29 (4).
7. Clause 30 (2) (a) or (d)
8. Clause 31 (3) (a).
9. Clause 36 (2) (a) or (c).
10. Clause 37 (2) (e).
11. Clause 38 (3) (a) or (d).
12. Section 39.
13. Clause 41 (2) (c).
14. Clause 42 (2) (b).
15. Section 43 or 44.
16. Clause 49 (a).
17. Section 50.
18. Subsection 51 (1).
19. Subsection 52 (1).
20. Section 54.
21. Section 56.
22. Subsection 59 (3).
23. Clause 62 (2) (a).
24. Clause 63 (13) (b).
25. Clause 64 (4) (a).
26. Clause 67 (2) (c) or (e). 1979, c. 78, s. 119.

NOTE.—*See section 136 for the day of the coming into force of section 119.*

PART X

MISCELLANEOUS

**120.** The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing, for the purposes of section 131, matters in respect of which the Commission may make findings;
- (b) exempting from Part XI rental units the monthly rental for which is \$750 or more;
- (c) prescribing fees for the purposes of section 89;
- (d) prescribing the form of assignments and subletting agreements and consents thereto;
- (e) prescribing the form of a notice of rent increase for the purposes of section 60;
- (f) prescribing the form of an inventory and of a written report for the purposes of section 63,
- (g) prescribing the form of an application to the Commission;
- (h) prescribing the form of a notice of appeal for the purposes of subsection 117 (1);
- (i) prescribing the form of a statement for the purposes of subsection 117 (5);
- (j) prescribing the form of a statement for the purposes of subsection 112 (3);
- (k) prescribing anything that by this Act may be prescribed. 1979, c. 78, s. 120.

**121.** Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Commission is of the opinion that it would result in unfairness to any person. 1979, c. 78, s. 121.

Substantial compliance with forms, etc., sufficient

**122.** Any person may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act. 1979, c. 78, s. 122.

Right to organize or participate in association

Offences

**123.—(1)** Any person who,

- (a) knowingly fails to obey an order of the Commission;
- (b) knowingly furnishes false information in any application, report or statement to the Commission under this Act or in any proceedings before the Commission;
- (c) knowingly breaches an obligation imposed upon him by subsection 25 (1) or (2) (changing of locks), subsection 26 (1) (right to privacy), subsection 29 (1) (withholding vital services), subsection 31 (1) (seizure of tenant's property), subsection 32 (1) (posting notice of legal name of landlord), subsection 35 (1) or (2) (entry of political canvassers); or
- (d) harasses a tenant for the purpose of forcing the tenant to vacate or abandon a rental unit,

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Where  
corporation  
convicted

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000, and not as provided therein. 1979, c. 78, s. 123.

## PART XI

## RENT REVIEW

Only one  
rent increase  
per year

**124.** The rent charged for a rental unit shall not be increased more often than once in any twelve-month period. 1979, c. 78, s. 124.

Maximum  
permitted  
rent increase  
without  
application

**125.** Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit by more than 6 per cent of the last rent that was charged for an equivalent rental period. 1979, c. 78, s. 125.

Application  
by landlord

**126.—(1)** Where a landlord desires to increase the rent charged for a rental unit by more than the percentage referred to in section 125, he may apply to the Commission for an order permitting him to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

(2) When the landlord applies to the Commission for an order under subsection (1), he shall, as part of the same application, apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

Whole  
building  
review

(3) An application under this section shall state the reasons for the intended increases and shall be made not less than sixty days before the effective date of the first intended rent increase that exceeds the percentage referred to in section 125.

Reasons for  
and time of  
application

(4) Where an application is made under this section, the landlord shall, not later than fourteen days before the date of the hearing of the application, file with the Commission all the material on which he intends to rely in support of his application, but the Commission may direct the landlord to file additional material and the hearing shall not commence or proceed until the other parties have had an opportunity to examine the additional material. 1979, c. 78, s. 126.

Filing of  
material

**127.**—(1) A tenant who desires to dispute any intended rent increase for his rental unit may apply to the Commission for an order requiring the landlord to reduce the amount of the rent increase.

Application  
by tenant

(2) Subsection (1) does not apply to a rent increase that results in a rent not exceeding the maximum approved by the Commission for the applicable rental unit.

Exception

(3) An application under this section shall be made not less than sixty days before the effective date of the intended rent increase. 1979, c. 78, s. 127.

Time for  
application

**128.** Where a rental unit that has not been rented during the previous twelve-month period then becomes rented, the rent then charged shall form the basis for determining whether subsequent rent increases exceed the percentage referred to in section 125, provided that the rent charged is comparable to the average rent charged for similar rental units in the residential complex. 1979, c. 78, s. 128.

Where vacant  
unit becomes  
rented

**129.**—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part.

Tenant not  
liable to pay  
illegal rent  
increase

(2) Where, on the application of a tenant, the Commission determines that the tenant has paid an amount of rent that

Remedy



is in excess of that permitted by this Part, the Commission shall order that the landlord pay the excess to the tenant and shall declare the rent that may lawfully be charged. 1979, c. 78, s. 129.

Commission  
may hear  
application  
under s. 126  
although  
notice of  
rent increase  
not yet given

**130.** Where under section 126 a landlord applies to the Commission for a determination of the rents that may be charged for all rental units in a residential complex, the Commission is empowered to hear the application and to determine the rent that may be charged for each rental unit despite the fact the landlord may not have, in respect of any rental unit, given notice under section 60 (notice of rent increase), but nothing in this section relieves the landlord from compliance with section 60. 1979, c. 78, s. 130.

Commission  
determination  
of total  
rent increase

**131.—(1)** Where an application is made by a landlord under section 126, the Commission shall determine the total rent increase for the residential complex that is justified by,

- (a) the findings of the Commission concerning operating costs, financing costs and capital expenditures that the landlord has experienced or will experience in respect of the residential complex;
- (b) the findings of the Commission concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;
- (c) the findings of the Commission concerning an improvement or deterioration in the standard of maintenance and repair of the residential complex or any rental unit located therein;
- (d) the findings of the Commission concerning matters prescribed by the regulations.

Limitation on  
consideration  
of financing  
costs

(2) In reaching its findings concerning financing costs under clause (1) (a), the Commission shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord.

Relief of  
hardship

(3) When the total rent increase for the residential complex has been determined under subsection (1), if the resulting gross revenue does not exceed the costs found under clause (1) (a) by at least 2 per cent, the Commission may, where it considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the gross revenue to not more than 2 per cent above the costs found.

(4) In apportioning the total rent increase determined under subsections (1) and (3) amongst the rental units in the residential complex, the Commission may take into account the following matters:

Apportionment  
of total rent  
increase

1. The rent schedule proposed by the landlord in his application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
3. Rents and variations in the rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.

(5) Where the Commission has determined and apportioned the total rent increase under this section,

Order setting  
maximum  
rent chargeable  
for each unit

- (a) the Commission shall make an order setting the maximum rent that may be charged for each rental unit that is under review and the date the rents may take effect; and
- (b) the Commission may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Commission in setting the maximum rent for a rental unit. 1979, c. 78, s. 131.

**132.**—(1) Where an application is made by a tenant under section 127, in determining a rent increase for the rental unit, the Commission shall, except where there has been an application under section 126 (whole building rent review), consider only the following matters:

Considerations  
where tenant  
applies

1. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
2. Rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.
3. An improvement or deterioration shown to have occurred in the standard of maintenance and repair that affects the rental unit.

(2) Where the Commission has made a determination on the application,

Order setting  
maximum  
rent chargeable  
for the unit

- (a) the Commission shall make an order setting the maximum rent that may be charged for the rental unit under review; and
- (b) the Commission may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Commission setting the maximum rent for the rental unit. 1979, c. 78, s. 132.

Rent  
chargeable  
until order  
takes effect

**133.** Where a notice of an intended rent increase has been given under section 60, a rent increase up to the lesser of,

- (a) the intended rent increase specified in the notice; and
- (b) the limit imposed by section 125,

may be charged and collected by the landlord until such time as the Commission's order setting the maximum rent that may be charged for the rental unit takes effect. 1979, c. 78, s. 133.

Exemptions

**134.**—(1) The following rental units are exempt from this Part:

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof;
- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, or situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);
- (c) a rental unit situate in a building, no part of which was occupied as a rental unit before the 1st day of January, 1976;
- (d) a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976;
- (e) a rental unit the monthly rental for which is \$750 or more, if the Lieutenant Governor in Council has,

R.S.C. 1970,  
c. N-10

by regulation made after the 31st day of December, 1979, exempted such premises from the provisions of this Part;

(f) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;

(g) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

(2) This Part does not apply to a rent increase to a tenant in subsidized public housing who is occupying a rental unit other than a unit referred to in clause (1) (a) or (b), but this Part does not apply to the unit itself.

(3) Where a landlord, by reason of the existence of depressed economic conditions in a local municipality, designated by order of the Minister, reduces a tenant's rent, and thereafter, not sooner than twelve months after the reduction took effect, desires to increase the rent, the landlord may increase the rent to,

(a) the maximum rent that could have been charged by the landlord for the rental unit at the date of the intended increase without applying to the Commission under section 126 had the rent not been decreased; or

(b) the current maximum rent previously established by the Commission on an application made under section 126. 1979, c. 78, s. 134.

## PART XII

### COMMENCEMENT AND TRANSITIONAL

**135.**—(1) Where, before the day the repeal of Part IV of the *Landlord and Tenant Act* takes effect,

(a) circumstances arise that give grounds for making an application under Part IV of the *Landlord and Tenant Act*; or

(b) an application is made under Part IV of the *Landlord and Tenant Act*,

Subsidized  
public  
housing

Application  
of Part in  
economically  
depressed  
municipality

Transitional  
on repeal of  
R.S.O. 1980,  
c. 232,  
Part IV



then despite the repeal of Part IV, that Part continues in force for the purposes of and applies to,

(c) making an application in the case mentioned in clause (a) and hearing and making orders in respect of that application or in respect of an application mentioned in clause (b) and appeals from such orders; and

(d) enforcing orders made under Part IV of that Act,

R.S.O. 1980,  
c. 232

and Parts I to X of this Act do not apply to applications made or entitled to be made under Part IV of the *Landlord and Tenant Act* by reason of this section.

NOTE.—See section 136 for the day of the coming into force of subsection 135 (1).

Application

(2) This Act, except sections 5 to 59, 62 to 69, 74, 111 to 113, 116, 119, subsection 135 (1) and the Schedule applies to tenancies under tenancy agreements entered into or renewed before and subsisting on the 17th day of August, 1979 or entered into on or after that day.

Idem

(3) The provisions of sections 5 to 59, 62 to 69, 74, 111 to 113, 116, 119, subsection 135 (1) and the Schedule apply to tenancies under tenancy agreements entered into or renewed before and subsisting on the day the provision comes into force or entered into on or after that day. 1979, c. 78, s. 139, *revised*.

Commence-  
ment

**136.** Sections 5 to 59, 62 to 69, 74, 111 to 113, 116, 119, subsection 135 (1) and the Schedule do not come into force until a day to be named by proclamation of the Lieutenant Governor. 1979, c. 78, s. 140, *revised*.

SCHEDULE

STANDARD RESIDENTIAL  
TENANCY AGREEMENT

INSTRUCTIONS FOR LANDLORD AND TENANT

IF YOU HAVE ANY QUESTIONS CONCERNING THIS TENANCY AGREEMENT OR YOUR RIGHTS AND OBLIGATIONS UNDER THE *RESIDENTIAL TENANCIES ACT*, YOU ARE INVITED TO ASK THE RESIDENTIAL TENANCY COMMISSION FOR ASSISTANCE. THE COMMISSION HAS BEEN ESTABLISHED TO ADVISE AND ASSIST THE PUBLIC ON ALL RESIDENTIAL TENANCY MATTERS. IN ADDITION, THE COMMISSION HAS POWER TO MEDIATE AND DECIDE DISPUTES BETWEEN LANDLORDS AND TENANTS.

This is the Standard Residential Tenancy Agreement, established under the *Residential Tenancies Act*. This agreement is applicable to all residential tenancies in Ontario.

The agreement must be signed by both the landlord and the tenant, or their agents.

Two copies of the agreement must be completed, one of which is to be given to the tenant.

No part of the tenancy agreement may be altered or deleted, but additional benefits and obligations may be added.

TENANCY AGREEMENT

This tenancy agreement is made between:

\_\_\_\_\_, the landlord  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone  
— and —

\_\_\_\_\_  
Name(s)

\_\_\_\_\_, the tenant.

Rental  
Unit

1. The landlord will rent to the tenant and the tenant will rent from the landlord the following rental unit:

Apt. No. Street Name and Number

(or other appropriate description)

City, Town, etc. Postal Code

2. COMPLETE EITHER (a) OR (b) AND CHECK (✓) WHICH IS APPLICABLE:

Nature  
and  
Duration  
of  
Tenancy

☐ (a) The tenancy is for a fixed term beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. (The tenancy will then automatically renew as a monthly tenancy unless terminated under the *Residential Tenancies Act*)

☐ (b) The tenancy is periodic (e.g. weekly, monthly, etc.) beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and running from \_\_\_\_\_ (week to week, month to \_\_\_\_\_ month, etc., as the case may be)

3. (a) The rent for the rental unit is \$\_\_\_\_\_ per \_\_\_\_\_ Rent (week, month, \_\_\_\_\_, payable in advance etc., as the case may be) for the duration of the tenancy. The first payment is \$\_\_\_\_\_ (pro-rated as necessary) and thereafter \$\_\_\_\_\_ per \_\_\_\_\_, payable on the (week, month, etc., as the case may be) \_\_\_\_\_ day of every \_\_\_\_\_ (week, month, etc., as the case may be)

Rent payments are to be made to \_\_\_\_\_ (Name and address \_\_\_\_\_ where payment to be made)

(b) The rent mentioned above includes payment for all services and facilities (e.g. parking, utilities, appliances, etc.) promised by the landlord, including:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
  
Provision of the following services and facilities is the responsibility of the tenant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Rent  
Deposit

4. THIS PROVISION IS OPTIONAL. CHECK THE BOX  
✓) IF THE PROVISION IS TO APPLY: ☐

- (a) The tenant agrees to pay the landlord a rent deposit  
in the amount of \$ —, which will be applied only  
in payment of rent for the period immediately  
preceding the termination of the tenancy.
- (b) The landlord will pay annually to the tenant interest  
on the rent deposit at the rate of 9 per cent per year.

The interest will be paid on \_\_\_\_\_  
of each year. (Insert date)

Residential  
Tenancies  
Act

5. The landlord and the tenant promise to comply with all  
obligations imposed on them by the *Residential Tenancies  
Act*.

Additional  
Obligations

6. The landlord and the tenant promise to comply with any  
additional obligations set out below.  
(NOTE: *Additional benefits and obligations cannot conflict  
with the Residential Tenancies Act, and where an  
obligation concerns the tenant's use, occupancy or maintenance  
of the rental unit or residential complex or use of services and  
facilities provided by the landlord, the obligation cannot be  
enforced unless it is reasonable in all the circumstances.*)

Reasonable  
Rules

7. The tenant promises to comply with the rules concerning  
the tenant's use, occupancy or maintenance of the rental  
unit or residential complex or use of services and facilities  
provided by the landlord that are set out below and as may,  
from time to time, be established or modified by the  
landlord, provided that the rules are in writing, made  
known to the tenant and reasonable in all the circumstances.

\_\_\_\_\_  
Signature of Landlord or authorized agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Tenant(s)



With regard to paragraphs 6 and 7 of this tenancy agreement, the landlord and tenant are referred to section 6 of the *Residential Tenancies Act* which provides:

**6.**—(1) In addition to the benefits and obligations contained in the form of tenancy agreement set out in the Schedule, a landlord and tenant may provide in a written tenancy agreement for other benefits and obligations which do not conflict with this Act, but where an obligation concerns the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord, the obligation cannot be enforced unless it is reasonable in all the circumstances. Additions to standard form

(2) A landlord shall not establish or modify, nor can he enforce, rules concerning the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord unless they are in writing, made known to the tenant and reasonable in all the circumstances. House rules to be reasonable

(3) Unless shown to be otherwise, for the purposes of this section, a rule or obligation is reasonable where it is, Where rule reasonable

(a) intended to,

(i) promote fair distribution of services and facilities to the occupants of the residential complex,

(ii) promote the safety or welfare of persons working or residing in the residential complex, or

(iii) protect the landlord's property from abuse;

(b) reasonably related to the purpose for which it is intended;

(c) applicable to all tenants in a fair manner; and

(d) sufficiently clear in its prohibition, direction or limitation of the tenant's conduct to inform him of what he must do or must not do in order to comply with it.

Determination  
of  
reasonableness

(4) A landlord or a tenant may apply to the Commission to determine whether a rule or obligation is reasonable in all the circumstances.

Where  
compliance  
order not to  
issue

(5) Where the Commission determines that the tenant has breached the obligation imposed by subsection 40 (1) (compliance with additional obligations), no order shall be made under clause 40 (4) (a) or (b) unless the Commission is of the opinion that the breach has resulted in damage beyond ordinary wear and tear to the rental unit or residential complex or unreasonable interference with,

(a) the safety; or

(b) the enjoyment for all usual purposes by the landlord or any tenant or members of their households,

of the residential complex or any rental unit.

*NOTE.—See section 136 for the day of the coming into force of this Schedule.*



## CHAPTER 453

## Retail Business Holidays Act

1.—(1) In this Act,

Interpre-  
tation

(a) “holiday” means,

- (i) New Year’s Day,
- (ii) Good Friday,
- (iii) Victoria Day,
- (iv) Dominion Day,
- (v) Labour Day,
- (vi) Thanksgiving Day,
- (vii) Christmas Day,
- (viii) Boxing Day,
- (ix) Sunday, and
- (x) any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of this Act;

(b) “retail business” means the selling or offering for sale of goods or services by retail;

(c) “retail business establishment” means the premises where a retail business is carried on.

(2) The Lieutenant Governor may by proclamation declare any day that is a public holiday other than a day named in subclauses (1) (a) (i) to (ix) to be a holiday for the purposes of this Act. 1975 (2nd Sess.), c. 9, s. 1.

Holidays  
designated  
for closing

2.—(1) Every person carrying on a retail business in a retail business establishment shall ensure that no member of the public is admitted thereto and no goods or services are sold or offered for sale therein by retail on a holiday.

Onus on  
person  
carrying  
on  
business



Onus on  
employees,  
etc.

(2) No person employed by or acting on behalf of a person carrying on a retail business in a retail business establishment shall,

(a) sell or offer for sale any goods or services therein by retail; or

(b) admit members of the public thereto,

on a holiday. 1975 (2nd Sess.), c. 9, s. 2.

Exemptions:  
small stores

**3.**—(1) Section 2 does not apply in respect of the carrying on of a retail business on a holiday where, on that day,

(a) the only goods available for sale by retail in the retail business establishment are,

(i) foodstuffs,

(ii) newspapers or periodicals, or tobacco or articles required for the use of tobacco,

(iii) antiques, or

(iv) handicrafts,

or any combination of them, or where the principal business is the sale of goods referred to in sub-clauses (i) to (iv), or any of them, by retail and no other goods are available for sale except as sundries; and

(b) the number of persons engaged in the service of the public in the establishment does not at any time exceed three; and

(c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

Idem,  
pharmacies  
R.S.O. 1980,  
c. 196

(2) Section 2 does not apply in respect of the carrying on of a retail business on a holiday in a pharmacy accredited under Part VI of the *Health Disciplines Act*, where, on that day,

(a) the dispensing of drugs upon prescription is available to the public during business hours; and

(b) the principal business of the pharmacy is the sale of goods of a pharmaceutical or therapeutic nature or

for hygienic or cosmetic purposes and no other goods are available for sale except as sundries; and

- (c) the number of persons engaged in the service of the public in the pharmacy does not at any time exceed four.

(3) Section 2 does not apply in respect of the carrying on of a retail business in a retail business establishment on a holiday where, on that day, the only goods available for sale by retail in the establishment are, Idem, special services

- (a) gasoline and motor oil and, in conjunction therewith, other goods for consumption in the operation of a motor vehicle; or
- (b) nursery stock or flowers, and in conjunction therewith, accessory gardening supplies; or
- (c) fresh fruit or vegetables in respect of holidays falling between the 1st day of April and the 30th day of November of the same year.

(4) Section 2 does not apply in respect of the carrying on of a retail business in a retail business establishment on a Sunday where, Idem, Saturday closing

- (a) the retail business establishment was closed to the public and no goods or services were sold or offered for sale therein during a period of twenty-four consecutive hours in the period of thirty-two hours immediately preceding the Sunday; and
- (b) the number of persons engaged in the service of the public in the establishment on the Sunday does not at any time exceed seven; and
- (c) the total area used for serving the public or for selling or displaying to the public in the establishment on the Sunday is less than 5,000 square feet.

(5) Section 2 does not apply in respect of the sale or offering for sale by retail, Idem, under licences or other Acts

- (a) of liquor under the authority of a licence or permit issued under the *Liquor Licence Act*;

R.S.O. 1980,  
c. 507

(b) of goods or services under the authority of a tourist establishment licence issued under the *Tourism Act*;

R.S.C. 1970,  
c. L-13  
R.S.O. 1980,  
c. 253

(c) of goods or services permitted under the *Lord's Day Act* (Canada) or the *Lord's Day (Ontario) Act*.

Idem,  
education,  
recreation,  
amusement

(6) Section 2 does not apply in respect of the admission of the public to premises for educational, recreational or amusement purposes or in respect of the sale or offering for sale of goods or services incidental thereto.

Idem,  
necessary  
services

(7) Section 2 does not apply in respect of services sold in connection with the sale or offering for sale by retail of any goods permitted by this Act to be sold, and does not apply in respect of goods or services sold or offered for sale by retail in the form of or in connection with,

(a) prepared meals;

(b) living accommodation;

(c) laundromats and other coin-operated services;

(d) rentals of vehicles or boats;

(e) servicing and repair of vehicles or boats.

Idem,  
under by-law  
or regulation

(8) Section 2 does not apply to retail business establishments or any class thereof in respect of which a by-law or regulation has been made under section 4 while the establishment is not in contravention of any conditions provided for in the by-law or regulation. 1975 (2nd Sess.), c. 9, s. 3.

Interpre-  
tation

4.—(1) In this section, "municipality" means a local municipality and includes a regional, district or metropolitan municipality but does not include the area municipalities thereof.

Municipal  
exceptions

(2) Where it is essential for the maintenance or development of a tourist industry, the council of a municipality may by by-law provide that section 2 does not apply to any class of retail business establishment in respect of the sale by retail of such goods or services on such holidays, for such periods of time, in such parts of the municipality and under such conditions as are specified in the by-law.

Exceptions  
in territory  
without  
municipal  
organi-  
zation

(3) The Lieutenant Governor in Council may make regulations providing that section 2 does not apply to any class of retail business establishment in territory without municipal organization or any part thereof in respect of the sale by

retail of such goods or services on such holidays for such periods of time and under such conditions as are specified in the regulations.

(4) A by-law or regulation made under this section may classify retail business establishments by size, number of persons employed, character of business, location or any other criterion. 1975 (2nd Sess.), c. 9, s. 4.

5. It is lawful for any person not prohibited by this Act to sell, offer for sale or purchase any goods, chattels or other personal property or to employ any other person in connection therewith on the Lord's Day where to do so would, but for this Act, be unlawful under section 4 of the *Lord's Day Act* (Canada). 1975 (2nd Sess.), c. 9, s. 5.

6. Any provision of any other Act empowering a municipality to regulate the closing or the hours of operation of a retail business does not include the power to permit the carrying on of the retail business on a holiday where to do so is prohibited by this Act, but nothing in this Act shall be construed to affect any power conferred on a municipality to prohibit the carrying on of a retail business on a day when the carrying on of the retail business is not prohibited by this Act. 1975 (2nd Sess.), c. 9, s. 6.

7. Every person who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 1975 (2nd Sess.), c. 9, s. 7.





## CHAPTER 454

## Retail Sales Tax Act

## 1. In this Act,

Interpre-  
tation

1. "admission" includes entry to a place of amusement where any charge is made for such entry and any entry that is provided to a place of amusement as a promotional distribution; 1973, c. 23, s. 1 (1); 1978, c. 6, s. 1 (1).
2. "consumer" or "user" means a person who,
  - (a) utilizes or intends to utilize in Ontario tangible personal property or a taxable service for his own consumption or for the consumption of any other person at his expense, or
  - (b) utilizes or intends to utilize in Ontario tangible personal property or a taxable service on behalf of or as the agent for a principal who desired or desires to so utilize such property or taxable service for consumption by the principal or by any person at the expense of the principal; R.S.O. 1970, c. 415, s. 1, par. 2.
3. "consumption" includes the use, and the incorporation into any structure, building or fixture, of tangible personal property including that manufactured by the consumer or further processed or otherwise improved by him and includes the provision by way of promotional distribution of any tangible personal property or taxable service; R.S.O. 1970, c. 415, s. 1, par. 3; 1978, c. 6, s. 1 (2).
4. "fair value" includes,
  - (a) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on

account of the price of the tangible personal property purchased or taxable service received,

- (b) the cost of, or charges for, customs, excise, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price,
- (c) the cost of installation where the contract under which the property is acquired provides for the acquisition of the property and its installation for one consideration, and
- (d) the cost, including materials, labour and manufacturing overhead, of tangible personal property produced by the vendor or person for his own consumption or use,

except that, in the case of either a mobile home or a modular home sold for the first time at a retail sale after the 6th day of April, 1976, "fair value" means the taxable value of such mobile home or modular home, as the case may be; R.S.O. 1970, c. 415, s. 1, par. 4; 1976, c. 23, s. 1 (1); 1978, c. 6, s. 1 (3).

- 5. "Minister" means the Minister of Revenue; R.S.O. 1970, c. 415, s. 1, par. 5.
- 6. "mobile home" means a vehicular portable structure that,
  - (a) is defined to be a mobile home, a multiple section mobile home or a swing out and expandable room section mobile home for the purposes of the Z240 series of standards prescribed by the Canadian Standards Association, and
  - (b) complies with the requirements for a mobile home, multiple section mobile home or swing out and expandable room section mobile home contained in that series of standards, and bears the seal of the Canadian Standards Association attesting to such compliance;
- 7. "modular home" means a house that is intended for residential purposes and that is constructed by assembling manufactured modular units each of

which comprises at least one room or living area, has been manufactured to comply with the A277 series of standards prescribed by the Canadian Standards Association, and bears the seal of that Association attesting to such compliance; 1976, c. 23, s. 1 (2).

8. "person", in addition to its meaning in the *Interpre-*<sup>R.S.O. 1980,</sup>  
*tation Act*, includes Her Majesty in right of Ontario,<sup>cc. 219, 303</sup>  
a partnership, a municipal corporation, including a district, metropolitan or regional municipal corporation, or a local board thereof as defined in the *Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature; 1973, c. 23, s. 1 (2).
9. "place of amusement" means an amusement park or a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance or entertainment is staged or held or where facilities for dancing are provided to the public with the service of liquor, beer or wine and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise; R.S.O. 1970, c. 415, s. 1, par. 7; 1977, c. 13, s. 1.
10. "price of admission" means the charge made to a purchaser for entry into a place of amusement; 1973, c. 23, s. 1 (3).
11. "promotional distribution" means the provision by any person to others of any tangible personal property, taxable service or admission to a place of amusement (other than any provision thereof that is prescribed by the Minister to be excluded from the application of this paragraph) that is, in the opinion of the Minister, provided for any one or more of the following purposes:
  - (a) to promote or encourage attendance at, or patronage of, any place of amusement, business, undertaking or enterprise,
  - (b) to describe, or to promote or encourage the purchase, consumption or use of, any goods, wares, services or property of any kind,



- (c) to furnish to any person any directory, listing or compilation of persons, places, prices, services, commodities, places of business or users of any service,
  - (d) for any function, use or purpose prescribed by the Minister to be a promotional distribution;
- 12. "promotional distributor" means any person who is a resident of, or carries on business in, Ontario and who, by way of promotional distribution, provides or causes to be provided to any person in Ontario any tangible personal property, taxable service or admission to a place of amusement the full fair value or full price of admission of which is not specifically charged to, and required to be paid by, the person to whom such tangible personal property, taxable service or admission to a place of amusement is provided; 1978, c. 6, s. 1 (4).
- 13. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense, and includes a person who, at his expense, purchases admission to a place of amusement for himself or for another person and includes also a promotional distributor to the extent that the full fair value or full price of admission of any tangible personal property, taxable service or admission to a place of amusement provided by way of promotional distribution exceeds any payment specifically made therefor by the person to whom such property, service or admission is so provided; 1976, c. 82, s. 1 (2); 1978, c. 6, s. 1 (5).
- 14. "registered consumer" means a person who brings or imports into Ontario tangible personal property for his own use or consumption that has a fair value exceeding \$100 in each of two months or more during a calendar year and who holds a valid consumer's permit;
- 15. "regulations" means the regulations made under this Act;

16. "retail sale" means a sale to a purchaser for the purpose of consumption or use and not for resale; R.S.O. 1970, c. 415, s. 1; pars. 10-12.
17. "sale" means,
- (*a*) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price or other consideration a person delivers to another person tangible personal property or renders to another person a taxable service,
  - (*b*) the production, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, processing, printing or imprinting,
  - (*c*) the furnishing and distribution of tangible personal property for a consideration by social clubs or fraternal organizations to their members or others,
  - (*d*) the furnishing, preparation or service for a consideration of food, meals or drinks,
  - (*e*) a transaction whereby the possession of tangible personal property is transferred but the vendor retains the title as security for payment of the price,
  - (*f*) a transfer for a consideration of the title to or possession of tangible personal property that has been produced, fabricated, printed or imprinted to the order of the purchaser,
  - (*g*) the production, fabrication, processing, printing or imprinting of tangible personal property or the production of a taxable service by a person for his own consumption or use when that person furnishes either directly or indirectly the materials and labour used in such production, fabrication, processing, printing or imprinting,
  - (*h*) the provision by way of promotional distribution of any tangible personal property or taxable service,

but "sale" does not include the transfer of title to or possession of tangible personal property to the shareholders of a corporation as the result of the winding up or dissolution of the corporation; R.S.O. 1970, c. 415, s. 1, par. 13; 1975, c. 9, s. 1 (1); 1976, c. 82, s. 1 (3); 1978, c. 6, s. 1 (6).

18. "storage" includes any keeping or retention in Ontario for any purpose except retail sale or subsequent use outside Ontario of tangible personal property purchased from a vendor, but does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; R.S.O. 1970, c. 415, s. 1, par. 14.
19. "tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural gas, manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid for possession or occupation of the real property to which the chattel is affixed; 1976, c. 82, s. 1 (4).
20. "tax" includes all penalties and interest that are or may be added to a tax under this Act; R.S.O. 1970, c. 415, s. 1, par. 16.
21. "taxable service" means,
  - (a) telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge, or

- (b) transient accommodation; R.S.O. 1970, c. 415, s. 1, par. 17; 1979, c. 27, s. 1 (1).

22. "taxable value" means,

- (a) in the case of a mobile home, one-half of the sale price thereof that is charged to the person acquiring the mobile home as a residence, if such price is determined by including therein all charges for delivery of the mobile home in accordance with the terms of such sale, by excluding therefrom the retail sale price of any furniture or appliance that is not permanently attached to, and part of, the interior structure of the mobile home, and by excluding therefrom any charges for the installation or connection of the mobile home on the site to which it is delivered, or
- (b) in the case of a modular home, an amount equal to 55 per cent of the sale price of such modular home on the sale thereof by its manufacturer to a builder, or where the manufacturer is the consumer of such modular home, 55 per cent of the sale price normally charged by the manufacturer on the sale thereof to a builder,

but such taxable value applies only with respect to the first retail sale of a mobile home or a modular home after the 6th day of April, 1976; 1976, c. 23, s. 1 (7).

23. "telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system, but does not include any transmission, emission or reception or class thereof that is prescribed by the Minister to be excluded for the purpose of this paragraph; 1979, c. 27, s. 1 (2).
24. "transient accommodation" means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house,



rooming house, or boarding house, if such house has accommodation for fewer than four tenants; R.S.O. 1970, c. 415, s. 1, par. 18.

25. "Treasurer" means the Treasurer of Ontario and Minister of Economics; 1975, c. 9, s. 1 (3).
26. "use" includes storage and the exercise of any right or power over tangible personal property incidental to the ownership of that property, but it does not include the sale of that property at a retail sale or the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario for use thereafter solely outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario;
27. "vendor" means a person who, in the ordinary course of his business,
  - (a) sells tangible personal property,
  - (b) sells or renders a taxable service, or
  - (c) operates a place of amusement. R.S.O. 1970, c. 415, s. 1, pars. 19, 20.

Tax on  
purchaser,  
of tangible  
personal  
property

**2.—**(1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 7 per cent of the fair value thereof. R.S.O. 1970, c. 415, s. 2 (1); 1973, c. 23, s. 2 (1).

of liquor,  
beer, wine,  
meals

(2) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:

1. liquor, beer or wine;
2. prepared meals sold at a price of over \$6.00. R.S.O. 1970, c. 415, s. 2 (2); 1977, c. 13, s. 2 (1).

(3) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 7 per cent of the fair value thereof. R.S.O. 1970, c. 415, s. 2 (3); 1973, c. 23, s. 2 (3).

(4) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$3.50. 1977, c. 13, s. 2 (2); 1979, c. 27, s. 2 (1).

(5) A purchaser shall pay the tax imposed by this Act at the time of the sale. R.S.O. 1970, c. 415, s. 2 (5).

(6) Notwithstanding subsection (5) and section 10, where a purchaser,

- (a) rents or leases from any person any taxable service at a sale in Ontario; or
- (b) acquires tangible personal property at a sale that is the lease or rental to him of such tangible personal property without provision for the transfer to him of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such tangible personal property,

the tax imposed by this Act shall be computed, paid and collected on the due date of, and on the fair value of the consideration given in payment of, each rental payment by or on behalf of the purchaser in respect of the lease or rental of such taxable service or tangible personal property, and tax shall, in addition, be computed, paid and collected at the time of, and on the fair value of the consideration given in payment for, each of the obtaining of any option or similar right to purchase the tangible personal property leased or rented or the exercising of any such option or similar right. 1976, c. 82, s. 2; 1979, c. 27, s. 2 (2).

(7) Where the Minister considers it necessary or advisable, he may determine the amount of any price of admission, or the fair value of any tangible personal property or taxable service, for the purposes of taxation under this Act, and thereupon the price of admission, or fair value of such tangible personal property or taxable service, for such purpose shall be as so determined by him unless, in proceedings instituted by an appeal under section 23, it is established that the determination is unreasonable. 1977, c. 13, s. 2 (3).

Refund  
of tax

(8) Subject to subsection (9), if a person sells any tangible personal property at a retail sale in Ontario to a person who alleges that he is not purchasing it for consumption or use in Ontario, he shall nevertheless require such person to pay the tax, but such payment shall be refunded on receipt by the Minister of satisfactory evidence that the tax was wrongfully paid. R.S.O. 1970, c. 415, s. 2 (7); 1974, c. 7, s. 1 (1); 1975, c. 9, s. 2 (2).

Idem

(9) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, such amount shall be refunded if, within three years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such three years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party. 1975, c. 9, s. 2 (3), *part*; 1979, c. 27, s. 2 (3).

Idem

(10) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 23, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded to him notwithstanding the limitations contained in subsection (9). 1975, c. 9, s. 2 (3), *part*.

Extension  
of time

(11) Where, within three years following the payment of an amount under this Act as tax that is not payable as tax, the person who paid such amount informs the Minister that a claim for a refund of such amount will be made, and further provides to the Minister evidence of the nature of the claim and an explanation satisfactory to the Minister of why the full particulars of the claim cannot be furnished in the proper form within such three-year period, the Minister may extend by not more than six months the three-year period mentioned in subsection (9). 1975, c. 9, s. 2 (3), *part*; 1979, c. 27, s. 2 (4).

Refund  
by  
vendor

(12) Notwithstanding subsection (9), a vendor may, in the circumstances described in clauses (a) to (d), refund to a purchaser from whom he has collected tax, the whole or a part of such tax, as the case requires, if the refund is made within three years following the sale with respect to which the tax being refunded was collected, and if,

- (a) the tax payable and collected, or the purchase price charged, has been overstated by reason of a clerical or arithmetical error in computation;
- (b) the purchaser acquired from the vendor the goods for the tax on which a refund is sought for the purpose of reselling such goods, and after the sale and before the refund is made provides the vendor with a proper purchase exemption certificate with respect to the goods;
- (c) the purchase price agreed to at the time of the sale is subsequently reduced,
  - (i) by reason of the purchaser's return of all or part of the goods purchased and the vendor's agreeing to refund part or all of the purchase price therefor,
  - (ii) by reason of damage to the goods in the course of delivery, the discovery of a defect in the quality of the goods sold, or the failure of the goods to answer fully the purpose for which they were purchased, provided that, in any such case, the goods are retained in full by the purchaser, or
  - (iii) by reason of any discount for prompt payment agreed to at the time of sale;

or

- (d) the refund made is with respect to a class of transactions prescribed by the Minister for the purpose of this subsection or has been authorized by the Minister in writing prior to the making of the refund,

and any refund made under this subsection may be deducted by the vendor making it from subsequent remittances of tax under this Act. 1976, c. 23, s. 2 (2), *part*; 1979, c. 27, s. 2 (5).

(13) Where the erroneous payment giving rise to a claim for a refund under subsection (9) or (10) is the result of a sale under a contract in which a party other than the applicant for the refund is the purchaser who should have paid the tax or any part thereof a refund of which is sought, and where such tax, had it been properly paid, can reasonably be considered to have been likely to form a part of the contract price that would have been charged to the person claiming the refund, the Minister may, notwithstanding sub-

Refund not  
to include  
tax



section (9) or (10), determine by such method or formula as he considers appropriate the amount by which the payment sought to be refunded exceeds the tax that would have been properly payable in the performance of the contract, and shall refund only the amount of such excess so determined. 1976, c. 23, s. 2 (2), *part*.

Tangible  
personal  
property  
brought into  
or received  
in Ontario

(14) Every person who brings into Ontario or who receives delivery in Ontario of tangible personal property acquired by him for value for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such property for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Minister and shall supply him with the invoice and all other pertinent information required by him in respect of the consumption or use of such property and at the same time shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such property as would have been payable if the property had been purchased at a retail sale in Ontario at the time such tangible personal property is brought into Ontario or delivery thereof is received in Ontario. R.S.O. 1970, c. 415, s. 2 (9); 1976, c. 23, s. 2 (3).

Calculation  
of tax

(15) The tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent, and every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as one cent, but, where on the same occasion or as part of one transaction several items of tangible personal property are purchased, the total of the purchase shall be deemed to be one purchase for the purposes of this Act.

Tax on  
merchandise  
tendered in  
trade

(16) Where tangible personal property subject to tax under this Act is accepted at the time of sale by a person or a vendor on account of the price of other tangible personal property sold, the purchaser shall pay a tax at the rate provided in subsection (1) calculated on the difference between the fair value of the property sold and the credit allowed for the tangible personal property accepted on account of the purchase price in trade.

Where  
exempt  
property  
put to  
taxable use

(17) Where tangible personal property has been purchased exempt from the tax imposed by this Act, and the tangible personal property is subsequently put to a taxable use, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of change of use. R.S.O. 1970, c. 415, s. 2 (10-12).

3.—(1) No vendor shall sell any taxable tangible personal property or sell any taxable service or operate any place of amusement the price of admission to which is taxable unless he has applied for, and the Minister has issued to him, a permit to transact business in Ontario and the permit is in force at the time of such sale. 1975, c. 9, s. 3 (1).

Vendor permits

(2) The Minister may,

Cancellation or suspension of permit

- (a) refuse to issue a permit to any vendor; or
- (b) suspend or cancel the permit of any vendor if such vendor or any of his employees contravenes any of the provisions of this Act,

but, before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be.

(3) Every application for a permit shall be made in the form prescribed by the Minister and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as is required, and the application shall be signed,

Information

- (a) by the vendor, if a natural person;
- (b) in the case of an association or partnership, by a member or partner; or
- (c) in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application to which shall be attached the written evidence of his authority. R.S.O. 1970, c. 415, s. 3 (3, 4).

(4) A permit issued under subsection (1) is valid only for the vendor in whose name it is issued, and only for so long as the vendor therein named transacts business in Ontario or until the permit is suspended or cancelled, as the case may be.

Limitation

(5) Every vendor shall keep at each location in Ontario where he transacts business a copy of the permit issued to him under subsection (1) and shall, upon the request of any purchaser, produce for such purchaser's inspection a copy of such permit. 1975, c. 9, s. 3 (2).

Production of permit

(6) Every vendor who fails to comply with any provision of this section is guilty of an offence against this Act. R.S.O. 1970, c. 415, s. 3 (7).

Offence

Sales in  
bulk  
R.S.O. 1980,  
c. 52

4.—(1) No person shall dispose of his stock through a sale in bulk to which the *Bulk Sales Act* applies without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable by such person have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment. R.S.O. 1970, c. 415, s. 4 (1); 1973, c. 23, s. 3; 1977, c. 13, s. 3 (1).

Idem

(2) Every person purchasing stock through a sale in bulk to which the *Bulk Sales Act* applies shall obtain from the person selling such stock the duplicate copy of the certificate furnished under subsection (1), and, if he fails to do so, he is responsible for payment to the Treasurer of all taxes collectable or payable by the person thus disposing of his stock through a sale in bulk. R.S.O. 1970, c. 415, s. 4 (2); 1977, c. 13, s. 3 (2).

Exemptions

5.—(1) The purchaser of the following classes of tangible personal property and taxable services is exempt from the tax imposed by this Act:

1. food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof; 1979, c. 27, s. 3 (1).
2. any prepared meal the price of which neither exceeds \$6.00 nor is included in the sale price of two or more prepared meals that are sold to one purchaser for a total sale price that exceeds \$6.00; 1973, c. 23, s. 4 (1), *part*; 1977, c. 13, s. 4 (1).
3. all prepared meals the prices of which are included in the total sale price of two or more prepared meals that are sold to one purchaser and that are consumed by two or more people if the average price of all the prepared meals the prices of which are included in such total sale price is not more than \$6.00 and if that average price is determined by dividing such total price by the number of people to whom was served a prepared meal the price of which was included in such total sale price and if the bill to the purchaser that contains such total sale price clearly shows the number of people to whom were served the prepared meals the prices of which were included in such total sale price; 1973, c. 23, s. 4 (1), *part*; 1977, c. 13, s. 4 (2).

4. gasoline taxed under the *Gasoline Tax Act*; R.S.O. 1980,  
c. 186
5. gasoline used by farmers or commercial fishermen on which refunds of tax are entitled to be granted or have been granted under the *Gasoline Tax Act*;
6. fuel taxed under the *Motor Vehicle Fuel Tax Act*; R.S.O. 1980,  
c. 300
7. fuel oil not taxed under the *Motor Vehicle Fuel Tax Act*;
8. coal;
9. coke;
10. wood, as defined by the Minister;
11. natural gas and manufactured gas, as defined by the Minister;
12. electricity for all purposes; R.S.O. 1970, c. 415, s. 5 (1), pars. 3-11.
13. ethyl alcohol or methyl alcohol that is sold and purchased as fuel to generate power by internal combustion in any engine, provided that such alcohol is delivered by the vendor thereof into the engine's fuel tank; -
14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is exclusively electrical energy or energy derived from the internal combustion of ethyl alcohol, methyl alcohol, natural gas or manufactured gas, but only if no part of the energy for the operation of the vehicle is derived from the internal combustion of any fuel taxed under the *Gasoline Tax Act* or the *Motor Vehicle Fuel Tax Act*; 1980, c. 22, s. 1 (1). R.S.O. 1980,  
c. 198
15. farm implements, farm machinery, farm equipment and repair parts, as defined by the Minister, that in his opinion are to be used by a person engaged in the business of farming; R.S.O. 1970, c. 415, s. 5 (1), par. 12.
16. trees, shrubs, bushes, seeds and seedlings, cut flowers and plants, bulbs from which plants or flowers may be grown, growing plants and flowers and the containers in which they are growing, but not any artificial plant, flower or tree; 1973, c. 23, s. 4 (2), *part*.
17. fertilizers, insecticides, fungicides, herbicides, rodenticides and combinations thereof;
18. fodder grain, mill and other agricultural feeds, as defined by the Minister;
19. paper twine, binder twine, baler twine, baler wire and barbed wire;



20. farm, hog and poultry fence, as defined by the Minister;
21. agricultural products, including live stock; R.S.O. 1970, c. 415, s. 5 (1), pars. 14-18.
22. materials and equipment required for irrigation purposes, repairs to such equipment, and drainage tiles, when such materials, equipment or tiles are purchased by a person who, with respect to such purchase, provides to the vendor a written statement that such materials, equipment or tiles will be used exclusively in the business of farming by a person engaged in farming, and the statement shall be signed by the person engaged in farming and by whom such materials, equipment or tiles will be used; 1975, c. 9, s. 4 (1).
23. used clothing or used footwear or a combination thereof sold by a religious, charitable, benevolent or non-profit organization in one transaction the total consideration for which does not exceed \$50;
24. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment;
25. footwear, as defined by the Minister, the price of which does not exceed an amount determined by the Minister; 1974, c. 7, s. 2 (1).
26. aircraft, and parts, equipment or repairs for such aircraft, that meet such requirements as are prescribed by the Minister and that are used by a person approved as a carrier of goods or passengers under the *Aeronautics Act* (Canada), or regulations made thereunder, to provide such class or classes of air services as are prescribed by the Minister;
27. street flushers, street sweepers and fire-fighting vehicles, as defined by the Minister, and purchased for the exclusive use of a municipality, university or public hospital at a price of more than \$1,000 per vehicle;
28. a mobile home within the meaning of this Act that has been occupied as a residential dwelling and that has previously been sold at a retail sale in Ontario made in good faith and for valuable consideration; 1976, c. 23, s. 3 (3).
29. materials or equipment that are used for the conservation of energy and that are,

- (a) thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,
  - (b) storm windows and storm doors, as defined by the Minister,
  - (c) heat pumps for use principally to provide heat in the heating system of a building,
  - (d) heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,
  - (e) units or chillers that are designed for use as part of an air-conditioning system and for the recovery and redistribution of heat when such units or chillers meet the conditions and specifications prescribed by the Minister,
  - (f) solar cells to be used to produce directly from sunlight electricity to charge batteries,
  - (g) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,
  - (h) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,
  - (i) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,
  - (j) wood-burning stoves and wood-burning furnaces, or
  - (k) wind deflectors for trucks; 1977, c. 13, s. 4 (3), *part*; 1978, c. 6, s. 2 (1); 1980, c. 22, s. 1 (2).
30. tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation; 1977, c. 13, s. 4 (3), *part*.
31. natural water, including ice and steam; R.S.O. 1970, c. 415, s. 5 (1), par. 25.
32. soil, clay, sand, gravel and unfinished stone; 1973, c. 23, s. 4 (3).

33. boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a *bona fide* commercial fisherman for use solely in his trade, and repairs to such boats, fishing nets or other fishing apparatus;
34. vessels of more than 500 tons gross;
35. drugs and medicines when sold on the prescription of a physician, dentist or veterinarian; R.S.O. 1970, c. 415, s. 5 (1), pars. 27-29.
36. artificial limbs and any prosthetic appliance or equipment as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), par. 30; 1973, c. 23, s. 4 (4).
37. orthopaedic appliances;
38. equipment designed solely for the use of blind persons, cripples or chronic invalids;
39. hearing aids;
40. dentures and dental appliances;
41. optical appliances when sold on the prescription of a physician or an optometrist;
42. equipment, as defined by the Minister, and purchased in good faith for use exclusively and not for resale by a hospital that is approved as a public hospital under the *Public Hospitals Act* or that is established under the *Community Psychiatric Hospitals Act* or by a sanatorium as defined under the *Sanatoria for Consumptives Act* or by The Ontario Cancer Treatment and Research Foundation, and repairs to such equipment; R.S.O. 1970, c. 415, s. 5 (1), pars. 31-36.
43. dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and explosives and refractory materials, all as defined by the Minister, and expended or used up in the process of manufacturing tangible personal property for sale or use; 1975, c. 9, s. 4 (2).
44. materials (except grease, lubricating oil or fuel for use in internal combustion engines) that are purchased to be used up or expended by a manufacturer or by a producer directly in,

R.S.O. 1980,  
c. 410, 79,  
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- (a) the manufacture or production of tangible personal property or in the research or development by such manufacturer or producer of either,
    - (i) goods for his own manufacture or production or for the manufacture or production of others, or
    - (ii) manufacturing or production processes for his use or the use of others,
  - (b) the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations, or
  - (c) a manufacturing or production process prescribed by the Minister for this clause and when the materials so used up or expended are prescribed by the Minister for the purpose of this clause; 1976, c. 82, s. 3 (1), *part*; 1980, c. 22, s. 1 (3).
45. machinery or equipment purchased for the use of a manufacturer, or for the use of a producer, if such machinery or equipment is,
- (a) to be used directly in the manufacture or production of tangible personal property or is to be used directly in, and exclusively for, the research or development by such manufacturer or producer of either,
    - (i) goods for his own manufacture or production or for the manufacture or production of others, or
    - (ii) manufacturing or production processes for his use or the use of others,
  - (b) to be used by such manufacturer or producer directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations,
  - (c) to be used by such manufacturer or producer to carry away refuse or waste from machinery or equipment used directly in the manufacture or production of tangible personal property, or to be used to exhaust or expel dust or noxious fumes produced in the manufacturing



or producing operations of such manufacturer or producer,

- (d) a gasoline-powered or diesel-powered self-propelled truck mounted on rubber-tired wheels that is not operated on the highway and that is used exclusively at mines or quarries,
- (e) a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier,
- (f) pipes, tubing, casings, fittings, couplings, thread protectors and nipples therefor, and drilling pipe that are commonly known as "oil country goods" and are used in connection with natural gas or oil wells, or
- (g) machinery, equipment and apparatus, including wire rope, drilling bits, drilling mud and seismic shot-hole casing, to be used in the exploration for, or in the discovery or development of, petroleum, natural gas or minerals,

but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph; 1976, c. 82, s. 3 (1), *part*; 1980, c. 22, s. 1 (4).

- 46. tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, tangible personal property for the purpose of sale or use;
- 47. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-

territorial waters; R.S.O. 1970, c. 415, s. 5 (1), pars. 39, 40.

48. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1981, is entitled to the exemption conferred by this paragraph; 1978, c. 6, s. 2 (2), *part*; 1979, c. 27, s. 3 (2); 1980, c. 70, s. 1 (1).
49. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American Plan" or "Modified American Plan"; 1978, c. 6, s. 2 (2), *part*; 1979, c. 27, s. 3 (3); 1980, c. 70, s. 1 (2).
50. children's clothing as the Lieutenant Governor in Council may determine by regulation; R.S.O. 1970, c. 415, s. 5 (1), par. 42; 1974, c. 7, s. 2 (2).
51. classroom supplies, as defined by the Minister, purchased for use or consumption and not for resale by schools, school boards or universities;
52. students' supplies, as defined by the Minister;
53. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes and that contain no advertising, but not directories, price lists, time tables, rate books, catalogues, reports, fashion books, albums or any books of the same general classes;
54. newspapers, however purchased;
55. magazines and periodicals, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 43-47.
56. liquor, beer or wine sold under the authority of a special occasion permit issued under the *Liquor Licence Act* and regulations made thereunder; 1973, c. 23, s. 4 (5).

R.S.O. 1980,  
c. 244

57. machinery or equipment that, pursuant to a contract for the acquisition or rental of such machinery or equipment or pursuant to a direction for the fabrication or manufacture thereof made or given after the 7th day of April, 1975 and before the 1st day of January, 1977, is delivered after the 7th day of April, 1975 and before the 1st day of January, 1978 to the person by whom such machinery or equipment is to be used, if such machinery or equipment is, in the opinion of the Minister, to be used principally in,

- (a) the process of manufacturing or producing tangible personal property for sale or use by the manufacturer or producer thereof, or
- (b) the construction of capital works, buildings, structures, roads or similar projects when the value of any separate piece of machinery or equipment so used and for which exemption is claimed under this paragraph is not less than \$500,

but no exemption may be claimed under this paragraph for any machinery or equipment,

- (c) that is, in the opinion of the Minister, principally used in the production or provision of a taxable service,
- (d) the contract for the rental or acquisition of which or the direction for the fabrication or manufacture of which is, in the opinion of the Minister, made for the purpose of obtaining the exemption conferred by this paragraph in substitution for or as the result of the cancellation of a substantially similar contract entered into or direction made or given before the 8th day of April, 1975, or
- (e) prescribed by the Minister to be excluded from the exemption conferred by this paragraph; 1975, c. 9, s. 4 (3), *part*; 1976, c. 23, s. 3 (4); 1976, c. 82, s. 3 (2).

58. returnable containers to be used to hold milk that is sold at a retail sale in Ontario; 1975, c. 9, s. 4 (3), *part*.

59. works of art, as defined by the Minister, purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies; R.S.O. 1970, c. 415, s. 5 (1), par. 50.

60. uncanceled postage stamps and uncanceled revenue stamps valid for the transportation of mail or for revenue purposes in the jurisdiction issuing such stamps, if the consideration for the sale thereof does not exceed the equivalent face value thereof in Canadian funds; 1976, c. 23, s. 3 (5).
61. coin, paper money or bank notes unless purchased at a price greater than the equivalent face value thereof in Canadian funds; R.S.O. 1970, c. 415, s. 5 (1), par. 52.
62. equipment, as defined by the Minister, that is to be used by a religious institution exclusively in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment, but not including any equipment acquired for resale by a religious institution; 1975, c. 9, s. 4 (4).
63. equipment, as defined by the Minister and that is purchased by a person licensed by the Minister of Natural Resources to trap fur-bearing animals, and repairs to such equipment; R.S.O. 1970, c. 415, s. 5 (1), par. 54; 1972, c. 4, s. 12.
64. machinery and apparatus and parts thereof, as defined by the Minister, purchased by advertisers or their agents that, in the opinion of the Minister, are used to produce advertisements exclusively in newspapers or magazines;
65. religious and educational publications, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 55, 56.
66. tangible personal property purchased at a price of less than 21 cents, except draft beer; 1972, c. 21, s. 1 (2).
67. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Minister, and repairs to such equipment;
68. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a public hospital, nurses' residence, school or university building; R.S.O. 1970, c. 415, s. 5 (1), pars. 58, 59.



69. tangible personal property that enters directly into and becomes part of the construction of capital works that, upon completion, are owned by a municipality or by a local board thereof, if the cost of such tangible personal property is shown to have been directly and substantially borne by the municipality or local board thereof that owns the capital works into the construction of which such tangible personal property entered; 1973, c. 23, s. 4 (6).

R.S.O. 1980,  
c. 502

70. tobacco products taxed under the *Tobacco Tax Act*;

71. settler's effects, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 61, 62.

72. animals, including birds, fish and reptiles, sold for use as household pets; 1973, c. 23, s. 4 (7).

R.S.C. 1970,  
c. I-6

73. tangible personal property situated on a reserve, as defined by the *Indian Act* (Canada) or by the Minister, when purchased by an Indian, and tangible personal property purchased by an Indian off the reserve when delivered to the reserve for consumption or use by an Indian; R.S.O. 1970, c. 415, s. 5 (1), par. 64; 1976, c. 23, s. 3 (6).

74. taxable services used on a reserve, as defined by the *Indian Act* (Canada) or by the Minister, when purchased by an Indian; R.S.O. 1970, c. 415, s. 5 (1), par. 65; 1976, c. 23, s. 3 (7).

75. vessels, as defined by the Minister, that do not exceed 500 tons gross and that are operated for commercial purposes, repairs to such vessels, and machinery or equipment purchased to refit such vessels; 1975, c. 9, s. 4 (5); 1976, c. 82, s. 3 (3).

76. patterns for the making of clothing or wearing apparel;

77. textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;

78. self-contained household smoke alarms purchased for use in residential premises;
79. furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of December, 1981; 1979, c. 27, s. 3 (4); 1980, c. 70, s. 1 (3).
80. furniture, other than that prescribed by the Minister to be excluded from the exemption conferred by this paragraph, that is purchased for private household use, if the purchase is made before the 1st day of July, 1981 and delivery thereof is taken by the purchaser on or after the 14th day of November, 1980 and before the 1st day of July, 1981;
81. major home appliances that are manufactured for private household use and that are,
  - (a) refrigerators, freezers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or
  - (b) washers or dryers for the laundering of clothes,but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,
  - (c) purchased before the 1st day of July, 1981 and delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981, and
  - (d) not appliances or a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph;
82. building materials, as defined by the Minister, that are purchased before the 1st day of July, 1981 and are delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981; 1980, c. 70, s. 1 (4).

**Exceptions** (2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act.

**Idem** (3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. R.S.O. 1970, c. 415, s. 5 (2, 3).

**Exemption for recipient of promotional distribution** (4) A person in Ontario to whom any tangible personal property, taxable service or admission to a place of amusement is provided by way of promotional distribution is, with respect to his consumption or use thereof or with respect to the price of admission thereof, exempt from the tax imposed by this Act on the amount by which the full fair value or full price of admission thereof exceeds any payment that is made by him solely and specifically for the receipt by him of the tangible personal property, taxable service or admission to a place of amusement so provided and that is not referable to the purchase, consumption or use by him of any other property, right or service. 1978, c. 6, s. 2 (3).

**Conditional exemptions** **6.**—(1) Where a person acquires title to tangible personal property by bequest or from a member of his family and no consideration is payable by the purchaser in respect of the acquisition, the tax imposed by subsection 2 (1) does not apply.

**Interpretation** (2) In subsection (1), “member of his family” means the father, mother, husband, wife, grandfather, grandmother, son, daughter, grandson, granddaughter, son-in-law, daughter-in-law, father-in-law or mother-in-law of the purchaser. R.S.O. 1970, c. 415, s. 6.

**Special exemptions** **7.**—(1) If, owing to special circumstances, it is deemed inequitable that the whole amount of tax imposed by this Act be paid, the Minister may, with the approval of the Lieutenant Governor in Council, exempt a purchaser from payment of the whole or any part of such tax. R.S.O. 1970, c. 415, s. 7 (1).

**Exemption from tax on admissions** (2) The tax imposed by subsection 2 (4) is not payable in respect of the price of admission to any entertainment, event, dance, performance or exhibition staged or held in a place of amusement by, or under the auspices or sponsorship of,

(a) a registered Canadian amateur athletic association, as defined by paragraph 110 (8) (b) of the *Income Tax Act* (Canada), including a branch or affiliate association to

which the registration under that Act of the Canadian amateur association of which it is a branch or affiliate has been extended;

- (b) a registered charity, as defined by paragraph 110 (8) (c) of the *Income Tax Act* (Canada); R.S.C. 1952,  
c. 148
- (c) a labour organization or society, or a benevolent or fraternal benefit society or order;
- (d) an agricultural society constituted under the *Agricultural Societies Act*; R.S.O. 1980,  
c. 14
- (e) an educational institution;
- (f) a club, society, association, chamber of commerce or board of trade organized and operated for any purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof except a proprietor, member or shareholder that is a club, society or association the primary purpose and function of which is the promotion of amateur athletics in Canada; or
- (g) an organization that is substantially assisted or supported financially from public funds of the Province of Ontario and that is prescribed by the Minister for the purpose of this subsection. 1979, c. 27, s. 4, *part.*

8. Every vendor is an agent of the Minister and as such shall levy and collect the taxes imposed by this Act upon the purchaser or consumer. 1973, c. 23, s. 5, *part.* Vendor to be  
collector

9.—(1) The Minister may in writing authorize any person who is not a vendor or any class of persons who are not vendors to collect, as agent of the Minister, the tax imposed by this Act, and an authorization under this subsection may limit the time during which the authority conferred is exercisable, and may limit the class or type of purchasers or consumers from whom tax may be collected. Other  
collectors  
may be  
authorized

(2) Every person who collects tax by virtue of an authorization made under subsection (1) shall be deemed to hold such tax in trust for Her Majesty in right of Ontario, and is responsible for the payment over of such tax in the manner and time provided under this Act and the regulations for the payment over of tax collected by a vendor. Collector  
to be  
trustee



Authorization  
may be  
revoked

(3) An authorization made under subsection (1) may be revoked with respect to any person to whom the authorization extends, but before any such revocation is made, the person affected shall be afforded an opportunity to appear before the Minister to show cause why the authorization should not be revoked.

Member of  
Assembly

(4) No person acting under subsection (1) or under section 8 shall thus be made ineligible as a member of the Assembly. 1973, c. 23, s. 5, *part*.

Taxes  
collected  
at the time  
of sale

**10.** The taxes imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale on the whole amount of the purchase price and be remitted to the Treasurer at the times and in the manner prescribed by the regulations. R.S.O. 1970, c. 415, s. 9.

Accounting  
by vendors

**11.** All taxes collected by a vendor under this Act, and all amounts collected as or on account of tax by a vendor under this Act, shall, subject to subsection 2 (12), be remitted to the Treasurer at the time or times and in such manner as are prescribed by the regulations, and every vendor who fails so to remit the tax or amounts so collected by him is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and no more than \$1,000 plus, in an appropriate case, an amount of not more than double the amount of tax collected and amounts collected as or on account of tax under this Act that were not remitted to the Treasurer as required by this Act or the regulations. 1976, c. 23, s. 4.

Compensa-  
tion to  
vendors

**12.—(1)** For each twelve-month period commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3 the lesser of,

(a) \$1,000; or

(b) the aggregate of,

(i) 4 per cent of the tax collected by the vendor in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

(ii) \$16 for each return with respect to tax collected by the vendor in such period that is made in accordance with this Act and the regulations and

in which the tax shown to have been so collected exceeds \$16 and is less than \$400, and

- (iii) the tax collected by the vendor in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$16,

as compensation for his services in collecting and remitting the tax imposed by this Act, and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11. 1975, c. 9, s. 5, *part*; 1977, c. 13, s. 5; 1979, c. 27, s. 5; 1980, c. 22, s. 2.

(2) The Minister may enter into such arrangements as he considers expedient and proper with any person who collects tax by virtue of an authorization made under subsection 9 (1) for the payment of compensation to such person for his services in collecting and remitting the tax imposed by this Act, and such person may deduct the compensation payable to him from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations. Compensation to other agents

(3) No person accepting compensation under subsection 1 Idem or 2 shall thus be made ineligible as a member of the Assembly. 1975, c. 9, s. 5, *part*.

**13.**—(1) Every vendor shall make returns to the Minister Returns and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act.

(2) Every registered consumer shall make returns to the Idem Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act. R.S.O. 1970, c. 415, s. 12.

**14.** Every manufacturer, wholesaler, importer, jobber, agent and vendor shall keep records of all purchases and sales made by him of tangible personal property whether for consumption or use or for resale, and any failure so to do constitutes an offence against this Act. R.S.O. 1970, c. 415, s. 13. Records of manufacturers, etc.

**15.**—(1) Subject to subsection (2), no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto Information to be secret

any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Communi-  
cation of  
information  
to other  
jurisdictions

(2) The Minister may,

(a) communicate or allow to be communicated information obtained under this Act; or

(b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada, if the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and if the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. R.S.O. 1970, c. 415, s. 14.

Assessment  
of tax  
collected

**16.**—(1) Where a vendor fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor.

Assessment  
on inspection

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any vendor or purchaser that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collected by the vendor or payable by the purchaser in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax collected by the vendor or payable by the purchaser, as the case may be. R.S.O. 1970, c. 415, s. 15 (1, 2).

Assessment  
from time  
to time

(3) The Minister may assess or reassess any tax payable by a purchaser under this Act within three years from the day such tax became payable, as the case may be, except that, where the Minister establishes that any purchaser has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud,

in making a return or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable. 1975, c. 9, s. 6; 1976, c. 23, s. 5.

(4) Where the Minister has made an assessment under subsection (1), he may send by prepaid mail or by personal service a notice of assessment to the vendor, requiring that the amount of the assessment made under subsection (1), be remitted to the Treasurer or otherwise accounted for.

Notice of  
assessment  
under subs. (1)

(5) The Minister shall send by prepaid mail a notice of the assessment made under subsection (2) or (3) to the vendor or purchaser, as the case may be, at his latest known address, and, where the vendor or purchaser has more than one address, one of which is in Ontario, such notice shall be sent to his address in Ontario.

Notice of  
assessment  
under  
subs. (2) or (3)

(6) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Continuation  
of liability  
for tax

(7) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act.

Minister  
not bound  
by returns

(8) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1970, c. 415, s. 15 (4-8).

Assessment  
valid and  
binding

**17.—**(1) The Minister may assess under this section any person who has received a refund or rebate under this Act or the regulations and who is not entitled to such refund or rebate, and such assessment shall be for the amount of the refund or rebate to which the person is not entitled and shall be accompanied by a brief statement in writing of the grounds upon which the person assessed is claimed not to be entitled to the amount claimed in the assessment.

Erroneous  
refunds or  
rebates

(2) Where a person has, in accordance with this Act and the regulations, applied for a refund or rebate under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person

Disallowance  
of rebate  
or refund



a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Penalty for  
non-  
collection  
of tax

(3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations and who has not complied with section 19 with respect to his failure to collect such tax shall, when assessed therefor, pay a penalty equal to the amount of tax that he failed to collect, but where the tax that should have been collected from a particular purchaser is \$50 or more and the vendor supplies to the Minister particulars of the transaction giving rise to such amount of tax and the name and address in Ontario of the purchaser liable for the tax, the Minister may, unless he is satisfied that the vendor wilfully neglected to collect such tax from such purchaser, assess such purchaser for such tax, in which case such tax shall not be included in an assessment made under this subsection.

Idem

(4) No penalty imposed under subsection (3) shall be imposed with respect to tax that should have been collected more than three years immediately preceding the day of the assessment under subsection (3), except that, where the Minister establishes that any vendor has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, then the Minister may, where he considers it expedient, impose the penalty provided for in subsection (3) for tax that should have been collected more than three years prior to the date of the assessment under subsection (3).

Penalty  
for  
understating  
fair value

(5) Every purchaser who, at a sale in Ontario, acquires or purchases from a person who is not a vendor within the meaning of this Act tangible personal property for the consumption of which the purchaser is liable to pay tax under this Act and who understates the fair value of such tangible personal property in any written statement or document signed by him or under his authority shall, when assessed therefor, pay a penalty of,

(a) not less than an amount equal to the greater of,

(i) \$25, or

(ii) the unpaid tax applicable to the amount by which he understated the fair value of such tangible personal property;

and

(b) not more than \$500,

and such penalty shall be in addition to the tax properly payable by him on his consumption of such tangible personal property.

(6) A statement under subsection (2) or a notice of an assessment made under this section may be served by sending such statement or notice by prepaid mail to the person whose claim is refused or against whom an assessment is made under this section, as the case may be, at his last known address in Ontario, or by serving such notice on him personally.

Notice of  
assessment

(7) Subject to being vacated on an objection or appeal, a statement or assessment under this section shall be deemed to be valid and binding, and the amount assessed in any such assessment shall, for the purposes of the collection or recovery thereof, be deemed to be tax owing under this Act and to be conclusively established as a debt owing to Her Majesty in right of Ontario.

Assessment  
conclusive

(8) Every person assessed under this section shall, within thirty days of the service of the notice of assessment, pay the amount assessed against him whether or not an objection to or appeal from the assessment is outstanding. 1976, c. 23, s. 6.

Payment of  
assessment

**18.**—(1) Every vendor or purchaser shall, within thirty days from the day of mailing of the notice of assessment under subsection 16 (4) or (5), pay any part of the assessed tax then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

Payment

(2) Where in the opinion of the Minister a vendor or a purchaser is attempting to avoid payment of the tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 16 (1), (2) or (3), he may, notwithstanding subsection 16 (4) or (5), serve the notice of assessment upon the vendor or the purchaser, as the case may be, and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof, and the Minister may direct that all taxes as set out therein shall be paid forthwith. R.S.O. 1970, c. 415, s. 16.

Idem

**19.** The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collectable under section 10, the vendor shall

Purchaser  
liable

within twenty days thereafter, notify the Minister thereof. R.S.O. 1970, c. 415, s. 17.

Tax moneys  
are trust  
moneys

**20.**—(1) Every vendor who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided under this Act and the regulations. R.S.O. 1970, c. 415, s. 18 (1).

Trust money  
in liquidation  
proceedings

(2) Where, by the order of a court or otherwise, any property of a vendor is lawfully taken from his control or possession for the purposes of liquidation in receivership proceedings, sale by a secured creditor, winding-up proceedings or for the purpose of a distribution to creditors pursuant to a general assignment made for the benefit of creditors, an amount equal to the amount of tax that was collected by the vendor and that by subsection (1) is deemed to be held in trust for Her Majesty in right of Ontario, shall, to the extent of the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and was not remitted to the Treasurer as required by subsection (1), be deemed to be separate from, and to form no part of, the estate or property in liquidation, whether or not that amount has in fact been kept separate and apart from the vendor's own property and in trust in accordance with subsection (1), and the amount deemed by this subsection to be separate from, and to form no part of the estate or property in liquidation, shall be paid out of cash and the proceeds of the realization of the vendor's property and the said claim shall be paid in priority to all other claims except those described by subsection (4) to be claims to which this subsection is not applicable. 1977, c. 13, s. 6, *part*; 1979, c. 27, s. 6 (1).

Minister's  
certificate

R.S.C. 1970,  
c. B-3

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3 shall, before distributing such property or the proceeds from the realization thereof under his control, obtain from the Minister a certificate that the tax collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted by the vendor as required by subsection (1) has been paid or that security therefor acceptable to the Minister has been given, and any assignee, liquidator, adminis-

trator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), who distributes any such property or the proceeds of the realization thereof without having obtained the certificate required by this subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection (1). 1977, c. 13, s. 6, *part*; 1979, c. 27, s. 6 (2).

R.S.C. 1970,  
c. B-3

(4) Subsection (2) does not apply to claims made against the specific property of a vendor under fixed charges, mortgages and assignments where the specific property is identified by description in the agreements pursuant to which the security was given and does not apply to claims made against accounts receivable of the vendor that were assigned or mortgaged for value under a general assignment of book debts or security agreement registered under the *Personal Property Security Act* where the assignee or mortgagee has given notice to the vendor's debtor of his assignment or interest and legal entitlement to the debts in question and has directed the vendor's debtor to pay the debt to it or where the assignee or mortgagee is in actual receipt of the proceeds of the debts prior to the date when the vendor lost control or possession of his property.

Where subs. (2)  
not  
applicable

R.S.O. 1980,  
c. 375

(5) The amount deemed by subsection (2) to be separate from, and to form no part of, the estate or property in liquidation shall be paid in priority to claims against all property of the vendor acquired after the date when the vendor gave a fixed charge, mortgage or assignment of specific property and which property by the terms of the fixed charge, mortgage or assignment is to be included in the said security once acquired by the vendor and claims against all property of the vendor secured under a floating instrument purporting to charge the property of the vendor in existence at the date when the security instrument was given as well as property of the vendor acquired after that date.

Priorities

(6) For the purpose of enabling the Minister to determine the amount that by subsection (2) is deemed to be separate from, and to form no part of, the estate or property in liquidation, every person who as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee in bankruptcy, takes control or possession of the property of any vendor holding a

Notice to be  
given



valid and subsisting permit issued under section 3, shall within thirty days from the date of his assumption of possession or control give written notice thereof to the Minister.

Minister to  
advise of  
indebtedness

(7) As soon as possible after receiving such notice, the Minister shall advise the person described in subsection (6) of the amount of taxes collected by the vendor in the one year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection (1).

Interpre-  
tation

(8) For the purposes of subsections (2) and (6), "estate" and "property" means all the assets of the vendor, real and personal, tangible and intangible, whether subject to liens, charges or encumbrances or whether free and clear of such claims, and without limiting the generality of the foregoing, includes lands, accounts receivable, claims, demands, inventory, chattels, equipment, mortgages, leases and generally all the vendor's undertaking, property and assets, of whatsoever nature and kind and wheresoever situate in Ontario. 1979, c. 27, s. 6 (3).

Discharge  
of lien

**21.**—(1) Where, prior to the 8th day of April, 1975, a first lien and charge arose or came into existence on any real property by virtue of subsection 20 (2) as it existed before such day, such real property is, upon the 1st day of July, 1975, absolutely discharged from such first lien and charge then remaining in force unless, prior to the 1st day of July, 1975, there is registered in the proper land registry office a notice claiming such first lien and charge. 1975, c. 9, s. 8.

Discharge  
of  
lien

(2) Where, on or after the 8th day of April, 1975, a person acquires in good faith, for value and without notice the title to any personal property on or with respect to which, prior to the 8th day of April, 1975 a first lien and charge arose or came into existence by virtue of subsection 20 (2) as it existed immediately prior to that date, such personal property is, upon the 8th day of April, 1976, absolutely discharged from such first lien and charge then remaining in force. 1976, c. 23, s. 7.

Notice  
of  
objection

**22.**—(1) Where a person objects to an assessment made against him under section 16 or 17 or to a statement under section 17 that is served on him, he may, within ninety days from the day of mailing of the statement or notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. 1976, c. 23, s. 8 (1); 1980, c. 70, s. 2.

(2) A notice of objection under this section shall be <sup>Service</sup> served by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 415, s. 19 (2).

(3) Upon receipt of the notice of objection, the Minister shall with all due dispatch <sup>Reconsideration</sup> reconsider the assessment or statement objected to and vacate, confirm or vary the assessment or statement, or reassess or serve a fresh statement, and he shall thereupon notify the person making the objection of his action by registered letter. 1976, c. 23, s. 8 (2).

**23.**—(1) When the Minister has given the notification <sup>Appeal</sup> required by subsection 22 (3), the person who has served a notice of objection under that section may appeal to the Supreme Court to have the assessment or statement so objected to vacated or varied, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 22 (3). 1976, c. 23, s. 9, *revised*.

(2) An appeal to the Supreme Court shall be instituted <sup>Appeals, how instituted</sup> by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

(3) A notice of appeal shall be served on the Minister <sup>Service</sup> by being sent by registered mail addressed to the Minister.

(4) The person appealing shall set out in the notice <sup>Statement of allegations</sup> of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

(5) An appeal under this section and all proceedings <sup>Security for costs</sup> thereunder are, upon the expiration of sixty days from the day the appeal is instituted, void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding \$400, as the Minister requires and, upon an appeal becoming void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision.

(6) When security has been given under subsection (5), <sup>Idem</sup> notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1970, c. 415, s. 20 (2-6).

Extension  
of time

(7) The time within which a notice of objection under section 22 or a notice of appeal under this section is to be served may be extended by the Minister if application for such extension is made before the time for service of the notice of objection or a notice of appeal, as the case may be, has expired. 1980, c. 70, s. 3.

Reply to  
notice of  
appeal

**24.** The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 23 (6), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void or affects a statement or assessment that has become valid and binding under subsection 16 (8) or subsection 17 (7). 1979, c. 27, s. 7.

Matter  
deemed  
action

**25.—**(1) Upon the filing of the material referred to in section 24 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business, the matter shall be deemed to be an action in the court. R.S.O. 1970, c. 415, s. 22 (1); 1975, c. 9, s. 9; 1976, c. 23, s. 10.

Facts not  
set out  
may be  
pleaded

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court may direct.

Disposal  
of appeal

(3) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it; and

(i) vacating the assessment,

(ii) varying the assessment,

- (iii) restoring the assessment, or
- (iv) referring the assessment back to the Minister for reconsideration and reassessment.

(4) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Treasurer, as the case may be, and may make such order as to costs as is considered proper. R.S.O. 1970, c. 415, s. 22 (2-4). Court may order payment of tax, etc.

**26.** Proceedings pursuant to sections 23, 24, 25 and 27 shall be held *in camera* on request made to the court by the person appealing or by the Minister. R.S.O. 1970, c. 415, s. 23. Proceedings *in camera*

**27.** The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 23, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1970, c. 415, s. 24. Supreme Court practice to govern

**28.** An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1970, c. 415, s. 25. Irregularities

**29.—(1)** Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and, Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax collectable or payable under this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examina-



tion of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax collectable or payable under this Act;

- (c) require a vendor or purchaser liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such vendor or purchaser is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such vendor or purchaser to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and
- (d) if, during the course of an audit or examination, it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any vendor or purchaser or, if any such vendor or purchaser is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information or additional information or a return as required under section 13 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered

letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a vendor or purchaser, or from any partner, agent, or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1970, c. 415, s. 26 (1-3).

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 415, s. 26 (4); 1972, c. 1, s. 1. <sup>Idem</sup>

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any vendor or purchaser, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1970, c. 415, s. 26 (5). <sup>Production of evidence to prove tax payable by another person</sup>

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1970, c. 415, s. 26 (6); 1972, c. 1, s. 1. <sup>Inquiry</sup>

## Copies

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. R.S.O. 1970, c. 415, s. 26 (7); 1972, c. 1, s. 1.

## Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

## Idem

(9) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Administra-  
tion of  
oaths

(10) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1970, c. 415, s. 26 (8-10).

Powers of  
inquiry

R.S.O. 1980,  
c. 411

(11) For the purpose of an inquiry under subsection (6), the person authorized to make the inquiry has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 415, s. 26 (11); 1971, c. 49, s. 18.

Penalty for  
default in  
filing return  
or remitting  
tax

**30.**—(1) Every vendor who fails to deliver a return as required by this Act and the regulations, or who fails to remit with his return the amount of taxes collectable or payable by him as shown therein, shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was collectable and of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or

(b) \$500, if the amount of such tax was \$10,000 or more. R.S.O. 1970, c. 415, s. 27 (1); 1973, c. 23, s. 6.

(2) Every vendor who fails to complete the information required on the return to be delivered under section 13 is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

Failure to  
complete  
return

(3) Every person who has,

False  
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the vendor or purchaser;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor or purchaser;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit any offence described in clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Every registered consumer who fails to deliver a return when required shall pay a penalty of,

Liability  
of registered  
consumers  
to pay  
penalties

- (a) an amount equal to 5 per cent of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or



(b) \$500, if the amount of such tax was \$10,000 or more.

Idem

(5) Every registered consumer who fails to complete the information required on the return to be delivered under subsection 13 (2) is liable to a penalty of 1 per cent of the tax payable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100. R.S.O. 1970, c. 415, s. 27 (2-5).

Extended  
time for  
making  
returns

**31.** The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 415, s. 28.

Interest

**32.**—(1) Any amount payable or to be remitted to the Treasurer under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer to the day of payment or until thirty days following the day on which a notice of assessment is mailed or personally served under subsection 16 (4) or (5), whichever is the earlier date. R.S.O. 1970, c. 415, s. 29 (1); 1972, c. 21, s. 4 (1).

Idem

(2) The amount due as shown by a notice of assessment made under subsection 16 (4) or (5) shall, if it is not paid within thirty days from the day of mailing or personal service of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing or personal service of the notice of assessment until the day of payment. R.S.O. 1970, c. 415, s. 29 (2); 1972, c. 21, s. 4 (2).

Interest  
on over-  
payments

**33.**—(1) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1970, c. 415, s. 30 (1).

Idem

(2) Where by a decision of the Minister under section 22 or by a decision of a court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment under section 16 or 17 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection (1) on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1970, c. 415, s. 30 (2); 1977, c. 13, s. 7.

**34.—**(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act. Garnish-  
ment

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. Idem

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirement under this section is liable to pay Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser. Liability  
of debtor

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service of  
garnishee

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1970, c. 415, s. 31. Idem

(6) Subject to the *Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied Garnishment  
of wages  
R.S.O. 1980,  
c. 526

and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Failure  
to remit

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. 1977, c. 13, s. 8.

Recovery  
of tax

**35.**—(1) Upon default of payment by a vendor or purchaser of any tax collectable or payable under this Act,

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury;

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1970, c. 415, s. 32 (1).

Compliance  
to be proved  
by affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. R.S.O. 1970, c. 415, s. 32 (2); 1972, c. 1, s. 1.

Remedies  
for recovery  
of tax

**36.** The use of any of the remedies provided by sections 34 and 35 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any

tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 415, s. 33.

**37.**—(1) The Minister may require any vendor to deposit with the Treasurer a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister but not greater than an amount equal to six times the amount of the estimated tax that would normally be collected by the vendor each month under this Act, but in no case shall the deposit be less than \$100. Surety bond

(2) Where a vendor who has deposited a bond with the Treasurer under subsection (1) has failed to collect or remit tax in accordance with this Act, the Minister may, by giving written notice to the vendor by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the vendor as the amount due to Her Majesty in right of Ontario as of the date of the notice. R.S.O. 1970, c. 415, s. 34 (1, 2). Disposal of surety bond

(3) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Treasurer a sum equivalent to 4 per cent of the total amount to be paid under the contract, or shall furnish the Treasurer with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract and shall obtain a certificate in duplicate from the Minister that the requirements of this subsection have been met. R.S.O. 1970, c. 415, s. 34 (3); 1975, c. 9, s. 10 (1). Non-resident contractors

(4) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the Minister as required in subsection (3) shall deduct 4 per cent of all amounts payable to the non-resident contractor and pay it over to the Treasurer on behalf of or as agent for the non-resident contractor, or shall furnish the Treasurer with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. R.S.O. 1970, c. 415, s. 34 (4); 1975, c. 9, s. 10 (2). Idem



Idem

(5) Where a person dealing with a non-resident contractor fails to comply with subsection (4), he is personally liable for payment of the tax imposed by this Act in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. R.S.O. 1970, c. 415, s. 34 (5).

Interpre-  
tation

(6) In this section, "non-resident contractor" does not include a company incorporated pursuant to the laws of Ontario. 1975, c. 9, s. 10 (3).

Tax not to  
be absorbed  
by vendors

**38.** No vendor shall advertise or post or otherwise quote a price that includes the tax imposed by this Act unless he specifies separately the amount of the tax payable under this Act, and no vendor shall hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by such vendor or that it will not be considered as an element in the price to the purchaser or, if added, that it or any part thereof will be refunded. 1973, c. 23, s. 7.

Offences

**39.**—(1) Every vendor or registered consumer who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 for each day during which the default continues.

Idem

(2) Every person who contravenes section 14 or 29 is guilty of an offence and on conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 415, s. 36.

Officers,  
etc., of  
corporations

**40.** Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 415, s. 37.

General  
penalty

**41.**—(1) Subject to subsection (2), a person guilty of an offence against this Act is liable on conviction to a fine of not less than \$10 and not more than \$1,000.

Penalty for  
failure to  
collect tax

(2) Every person who fails to collect the tax imposed by this Act is liable on conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection (3) and, in addition, an amount not less than \$10 and not more than \$1,000.

(3) The Minister shall determine the amount of the tax <sup>Idem</sup> referred to in subsection (2) from such information as is available to him and shall issue a certificate as to the amount, but, except where he deems there has been deliberate evasion of this Act, the Minister shall not consider a period of more than three years in determining the amount of the tax referred to.

(4) In any prosecution under subsection (2), a certificate <sup>Idem</sup> signed or purported to be signed by the Minister stating the amount of tax that should have been collected is *prima facie* evidence of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

(5) Any information in respect of an offence under this <sup>Idem</sup> Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(6) Neither the application of any provision of this <sup>Idem</sup> section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act.

(7) Fines imposed under this Act shall be paid to the <sup>Disposition of fines</sup> Treasurer on behalf of Her Majesty in right of Ontario. R.S.O. 1970, c. 415, s. 38.

(8) Where a fine provided for in this Act is imposed on any person as the result of his conviction for the commission of an offence against this Act, a sentence of imprisonment for not more than one year in default of payment of the fine may also be imposed on such person. 1976, c. 23, s. 11.

**42.** In any prosecution for failure to pay the tax or <sup>Onus of proof</sup> collect or remit the tax, the onus of proving that the tax was paid, collected or remitted, as the case may be, to the Minister is upon the accused. R.S.O. 1970, c. 415, s. 39.

**43.** A proceeding to prosecute an offence against this Act shall <sup>Limitation</sup> be commenced within six years of the time when the matter of the offence arose. R.S.O. 1970, c. 415, s. 40, *revised*.

**44.**—(1) In a prosecution against a vendor under this <sup>Evidence in prosecutions</sup> Act, the application form he filed for a permit under section 3 is *prima facie* evidence that the person charged is

a vendor under this Act and a return filed by him is *prima facie* evidence that he collected tax under this Act.

Idem           (2) Where a vendor is described as a partnership on an application form for a permit under section 3, the application form is *prima facie* evidence that the persons named therein are members of such partnership and a return form filed by the partnership is *prima facie* evidence that the partnership collected tax. R.S.O. 1970, c. 415, s. 41.

Regulations   **45.**—(1) For the purpose of carrying into effect the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary and advisable. R.S.O. 1970, c. 415, s. 42 (1).

Idem           (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) prescribing the method of collection and remittance of the tax and any condition or requirement affecting such collection or remittance;
- (b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) defining any expression used in this Act or the regulations;
- (d) providing for the rebate of the tax in whole or in part to,
  - (i) the governing body of any religious, charitable or benevolent organization in respect of tangible personal property entering into capital investment by such organization,
  - (ii) the governing body of any hospital, nurses' residence, school or university in respect of tangible personal property that is purchased by such governing body pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of a hospital, nurses' residence, school or university building, where the personal prop-

erty in respect of which the rebate is claimed was not purchased exempt from tax under this Act,

- (iii) a municipality, or local board thereof, in respect of tangible personal property that is purchased pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of capital works, where the personal property in respect of which the rebate is claimed was not purchased exempt from tax under this Act,

and prescribing the terms and conditions under which such rebates may be made;

- (e) providing for relaxing the strictness of this Act relative to the incidence or collection of tax hereunder in special circumstances where, without relaxation, inconvenience or hardship might result, including cases involving the purchase of tangible personal property at bazaars and rummage sales;
- (f) providing for the rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made;
- (g) prescribing the rates of interest payable under this Act;
- (h) providing for the payment of interest to persons to whom any rebate of tax is made under clause (d) or (f) and prescribing the rate thereof;
- (i) providing for the payment to vendors of all or any part of money paid as tax where such money was paid by a vendor on behalf of a purchaser who has defaulted in paying to the vendor the tax payable, and prescribing the conditions on which any payment authorized by this clause may be made. R.S.O. 1970, c. 415, s. 42 (2); 1972, c. 1, s. 1; 1973, c. 23, s. 8; 1975, c. 9, s. 11 (1).

- (3) The Minister may make regulations,

*Idem*

- (a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;



- (b) prescribing for the purposes of this Act or the regulations the records and information to be kept and maintained by a vendor, registered consumer or purchaser;
- (c) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (d) providing for the rebate of all or part of the tax paid on the purchase of a motor vehicle that is or will be adapted for the transportation of persons who have a permanent physical handicap that renders it impractical for them to use the usual forms of public transportation, if available, provided that such purchasers do not operate or permit the use of such vehicles for profit or as part of any undertaking carried on for gain, and the Minister may determine the conditions on which such rebate may be made and the extent of the adaptation necessary to entitle any person to such rebate;
- (e) determining the basis and method for payment, collection, or accounting for tax on the consumption or use of tangible personal property or a taxable service where such use or consumption frequently or substantially occurs outside Ontario or is alternately or concurrently taxable and exempt;
- (f) providing for the refund of tax paid on the purchase of thermal insulation materials, as defined for the purposes of paragraph 29 of subsection 5 (1), used after the 6th day of April, 1976 to insulate a building the construction of which has been completed, that is occupied permanently or seasonally for residential purposes, and that is not a building to which the exemption conferred by paragraph 29 of subsection 5 (1) does not apply;
- (g) providing for the rebate of tax paid on parts that are used to increase the output or capacity of machinery and equipment, the purchase of which would be exempt by clause (a) of paragraph 45 of subsection 5 (1) if the capacity or output of such machinery or equipment is increased by not less than 25 per cent of the original output or capacity specified for such machinery or equipment, and prescribing the conditions on which

such rebate may be made and, where the Minister considers it appropriate, the method of calculating in any case or class of cases the increase in output or capacity necessary to meet the requirements of this clause;

- (h) providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate;
- (i) providing for the rebate to persons engaged in the business of farming of tax paid on the consumption after the 22nd day of April, 1980 of tangible personal property for the construction or installation of grain storage bins or grain dryers, and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made;
- (j) extending to a date not later than the 30th day of September, 1981, the period within which delivery is required to be made for the purpose of any exemption conferred by paragraph 80, 81 or 82 of subsection 5 (1). 1975, c. 9, s. 11 (2), *part*; 1976, c. 23, s. 12; 1976, c. 82, s. 4; 1979, c. 27, s. 8; 1980, c. 22, s. 3; 1980, c. 70, s. 4.

(4) A regulation is, if it so provides, effective with <sup>Idem</sup> reference to a period before it was filed. 1975, c. 9, s. 11 (2), *part*.



## CHAPTER 455

## Riding Horse Establishments Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980,  
c. 270
- (b) "Director" means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food;
- (c) "foal" means a young horse;
- (d) "horse" means any animal of the equine species;
- (e) "inspector" means an inspector appointed under this Act;
- (f) "licence" means a licence under this Act;
- (g) "Minister" means the Minister of Agriculture and Food;
- (h) "regulations" means the regulations made under this Act;
- (i) "riding horse establishment" means premises where horses are kept that are let out on hire for riding or used in providing instruction in riding for payment or both;
- (j) "veterinarian" means a person registered under the *Veterinarians Act*. R.S.O. 1980,  
c. 522 1972, c. 59, s. 1; 1978, c. 100, s. 21 (1).

2.—(1) No person shall commence or continue to be the operator of a riding horse establishment without a licence therefor from the Director. Licence

(2) No person shall be granted a licence as the operator of a riding horse establishment unless he, Requirements  
for licence



- (a) or the staff in his employ, is experienced in the proper care and handling of horses; and
- (b) possesses all vehicles, tools, implements, equipment, buildings and dietary materials necessary to properly care for and handle horses on his premises.

Suspension or  
revocation of  
licence

(3) A licence may be suspended or revoked where,

- (a) the licensee has not properly maintained any of the facilities, equipment or materials referred to in clause (2) (b); or
- (b) the licensee or any person employed by him or associated with him in connection with his operation as licensee has failed to observe or carry out the provisions of,
  - (i) this Act or the regulations, or
  - (ii) any other Act relating to cruelty, maltreatment or neglect of animals. 1972, c. 59, s. 3.

Issue of  
licence

**3.**—(1) Subject to section 9, the Director shall issue a licence as an operator of a riding horse establishment to an applicant therefor unless, in his opinion, the applicant does not comply with clauses 2 (2) (a) and (b).

Location of  
premises to  
be noted on  
licence

(2) Every licence shall have noted thereon the location of any premises used by the licensee for a riding horse establishment.

Refusal of  
licence

(3) Where the Director is of the opinion that an applicant for a licence as an operator of a riding horse establishment does not comply with clauses 2 (2) (a) and (b), he may, after a hearing, refuse to issue the licence.

Renewal

(4) Subject to subsection (5), the Director shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to  
renew or  
suspension or  
revocation of  
licence

(5) Where the Director is of the opinion, in the case of a licensee, that clause 2 (3) (a) or (b) applies; he may, after a hearing, refuse to renew or may suspend or revoke the licence.

Idem

(6) Notwithstanding subsection (5), the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the

Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

(7) Subject to subsection (5), where, within the time prescribed therefor, or if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application. 1972, c. 59, s. 4.

4.—(1) The notice of a hearing by the Director under section 3 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(2) The applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1972, c. 59, s. 5.

5. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing, he may, at any time on his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1972, c. 59, s. 6.

6.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there

are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal of  
appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of  
decision  
pending  
disposal of  
appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of. 1972, c. 59, s. 7.

Parties

7.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members  
making  
decision  
not to have  
taken part in  
investigation,  
etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of  
fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,  
c. 484

Only  
members at  
hearing to  
participate in  
decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1972, c. 59, s. 8.

8.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1972, c. 59, s. 9. Effect of decision of Board pending disposal of appeal

9. The Director shall not issue a licence to any person who formerly held a licence as an operator of a riding horse establishment and whose licence was revoked less than one year before the date of the application. 1972, c. 59, s. 10. When licence not to issue

10.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary, and, notwithstanding any other Act, such inspectors have exclusive authority to initiate proceedings to enforce the provisions of this Act and the regulations. Appointment of chief inspector and inspectors

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. Certificate of appointment

(3) Subject to subsections (4), (5), (6) and (7), an inspector may, for the purpose of carrying out his duties under this Act, Powers of inspector

- (a) enter any premises, car, truck or other conveyance in which he believes on reasonable and probable grounds there are horses that are used, or that are intended to be used, in connection with a riding horse establishment or any foals, and inspect the premises,



car, truck or other conveyance, any facilities or equipment therein and any horse therein; and

- (b) demand the production or furnishing by the owner or custodian thereof of any books, records or documents or extracts therefrom relating to horses that he believes on reasonable and probable grounds are used or intended to be used in connection with a riding horse establishment or any foals.

When powers  
to be  
exercised

- (4) An inspector shall exercise his powers under subsection (3) only between sunrise and sunset, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,  
c. 400

Production  
and photo-  
copying of  
records, etc.

- (5) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification  
of photocopy

- (6) Where a book, record, document or extract has been photocopied under subsection (5), a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection (5) is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to  
be in  
writing

- (7) Where an inspector makes a demand under clause (3) (b), the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

R.S.O. 1980,  
c. 356  
not to  
apply

- (8) The *Ontario Society for the Prevention of Cruelty to Animals Act* does not apply in respect of horses in the possession of a licensed operator of a riding horse establishment. 1972, c. 59, s. 11.

Obstruction  
of inspector

- 11.** No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. 1972, c. 59, s. 12.

Absence of  
horse from  
location  
noted on  
licence

- 12.—**(1) No person who is the holder of a licence as an operator of a riding horse establishment shall cause or permit any horse to be absent from a location noted on his licence where he knows or ought reasonably to know that such

horse while absent will be used for riding for hire or used in providing instruction in riding unless,

- (a) the horse is transferred to a riding horse establishment in respect of which a licence has been issued to the operator therefor;
- (b) the total length of time that the horse is absent from a location noted on the licence does not exceed three full days in any seven-day period;
- (c) the place to which the horse is transported is a fair or exhibition held under the auspices of an agricultural society;
- (d) there is a sale of the horse to a *bona fide* purchaser for value; or
- (e) he has a permit therefor issued by the Director in the manner prescribed by the regulations.

(2) Where a horse is absent in accordance with subsection (1) and the licensee, subsequent to the commencement of the absence, contravenes any of the provisions of subsection (1), whether as a result of revocation of the permit referred to in clause (1) (e) or otherwise, the licensee shall forthwith transport such horse, or cause it to be transported, to a location noted on his licence. Return of horse to location noted on licence

(3) Where a horse is required to be transported under subsection (2) and a veterinarian has examined the horse and has advised in writing that it is not in the best interest of the horse to be transported forthwith, the licensee shall transport the horse, or cause it to be transported, to a location noted on his licence at such later time as the veterinarian may designate. 1972, c. 59, s. 13. Idem

**13.** No person who is the holder of a licence as an operator of a riding horse establishment shall transfer possession to any other person of a foal that is less than ninety days old unless, Transfer of possession of foals

- (a) the dam thereof has died;
- (b) possession of the dam is transferred with the foal to the same person; or
- (c) he has a permit for the transfer of possession of foals issued by the Director in the manner prescribed in the regulations. 1972, c. 59, s. 14.

**14.** No person shall, with respect to any horse from a riding horse establishment, Prohibition

- (a) at a time when the horse is in such a condition that its riding would be likely to cause suffering to the horse, let out the horse for hire for riding or use it for providing instruction in riding for payment or for the purpose of demonstrating riding;
- (b) let out for hire for riding or use for providing instruction in riding for payment or for the purpose of demonstrating riding any horse less than three years old or any mare heavy with foal or any mare within ninety days after foaling except where the foal has died but in no case less than twenty-one days after foaling;
- (c) supply for the horse any equipment that is subject to defect in condition or design that is apparent on inspection and is likely to cause suffering to the horse;
- (d) fail to provide such care and attention as may be suitable for a horse that is ill or injured;
- (e) knowingly permit the horse to be ridden by any person who abuses or causes suffering, or is likely to abuse or cause suffering, to the horse;
- (f) in operating the riding horse establishment knowingly permit any person whose licence as an operator of a riding horse establishment is suspended or was revoked less than one year previously, to have control or management of the riding horse establishment; or
- (g) with intent to avoid inspection, conceal or cause to be concealed the horse. 1972, c. 59, s. 15.

Application

**15.** Where horses are used for riding or used in providing instruction in riding as a part of an enterprise where other services are rendered for which payment is made and no specific charge is made or payment required in respect of the use of any such horse, such horse shall be deemed to be let out on hire for riding or used in providing instruction in riding for payment, as the case may be. 1972, c. 59, s. 16.

Offence

**16.—(1)** Every person who contravenes any of the provisions of this Act or the regulations, other than a regulation made under clause 18 (j) or (k), is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both, and for

a subsequent offence to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(2) Every person who contravenes the provisions of a regulation made under clause 18 (j) or (k), is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not more than \$100. 1972, c. 59, s. 17.

**17.** Where it is made to appear from the material filed <sup>Injunction proceedings</sup> or evidence adduced that any offence against this Act or the regulations or against any Act relating to cruelty, maltreatment or neglect of animals has been or is being committed by any person who is the operator of a riding horse establishment or who is employed by or associated with any such person, the Supreme Court may, upon the application of the Director, enjoin any such person from being engaged in any way in the operation of a riding horse establishment absolutely or for such period as seems just. 1972, c. 59, s. 18.

**18.** The Lieutenant Governor in Council may make regula- <sup>Regulations</sup> tions,

- (a) providing for the manner of issuing licences, prescribing their duration and the fees payable therefor;
- (b) prescribing further procedures for hearings before the Board;
- (c) providing for the issuing by the Director to a licensed operator of a riding horse establishment of a permit for the absence of a horse from a location noted on his licence and prescribing the terms and conditions for the issuing and revocation of such permits;
- (d) providing for the issuing by the Director to a licensed operator of a riding horse establishment of a permit for the transfer of possession of foals and prescribing the terms and conditions for the issuing and revocation of such permits;
- (e) prescribing the buildings, facilities and equipment to be provided by the operator of a riding horse establishment;
- (f) prescribing the degree and nature of supervision to be provided by the operator of a riding horse establishment over persons employed by or associated with him in the operation of the riding horse establishment and prescribing qualifications required of such persons;



- (g) prescribing standards for the health, welfare and care of horses, or any class thereof, in connection with a riding horse establishment;
- (h) prescribing facilities and equipment for the transportation of horses that are used or are intended to be used in connection with a riding horse establishment;
- (i) classifying riding horse establishments, requiring the operators of any class of riding horse establishment to provide for the services of a veterinarian in connection with the care of horses and prescribing the terms and conditions on which such services shall be provided in respect of any such class;
- (j) prescribing the records to be made and kept by the operator of a riding horse establishment or any class thereof and prescribing the places at which such records shall be kept;
- (k) prescribing methods for the identification of horses;
- (l) prescribing the facilities and equipment to be provided and maintained by the operator of a riding horse establishment for use in preventing or fighting fires;
- (m) prescribing forms and providing for their use. 1972, c. 59, s. 19.

## CHAPTER 456

### Rights of Labour Act

#### 1. In this Act,

Interpre-  
tation

- (a) "collective bargaining agreement" means an agreement between an employer and a trade union setting forth terms and conditions of employment;
- (b) "trade union" means a combination, whether temporary or permanent, having among its objects the regulating of relations between employees and employers or between employees and employees or between employers and employers. R.S.O. 1970, c. 416, s. 1.

2. A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of trade. R.S.O. 1970, c. 416, s. 2.

3.—(1) Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, is not actionable unless the act would be actionable if done without any agreement or combination.

(2) A trade union shall not be made a party to any action in any court unless it may be so made a party irrespective of any of the provisions of this Act or of the *Labour Relations Act*.

(3) A collective bargaining agreement shall not be the subject of any action in any court unless it may be the subject of such action irrespective of any of the provisions of this Act or of the *Labour Relations Act*.

(4) Nothing in this Act shall be construed to prevent or otherwise affect the prosecution of a trade union or a member thereof under the *Labour Relations Act*. R.S.O. 1970, c. 416, s. 3.



## CHAPTER 457

## Road Access Act

## 1. In this Act,

Interpre-  
tation

- (a) "access road" means a road located on land not owned by a municipality and not dedicated and accepted as, or otherwise deemed at law to be, a public highway, that serves as a motor vehicle access route to one or more parcels of land;
- (b) "common road" means an access road on which public money has been expended for its repair or maintenance;
- (c) "judge" means a judge of a county or district court;
- (d) "motor vehicle" means a motor vehicle as defined in the *Highway Traffic Act*;
- (e) "road" means land used or intended for use for the passage of motor vehicles. 1978, c. 61, s. 1.

R.S.O. 1980,  
c. 198

2.—(1) No person shall construct or place a barrier or other obstacle over an access road, not being a common road, that, as a result, prevents all road access to one or more parcels of land or to boat docking facilities therefor, not owned by that person unless,

When access  
road may be  
closed

- (a) the person has made application by way of originating notice of motion to a judge for an order closing the road and has given ninety days notice of such application to the parties and in the manner directed by this Act and the judge has granted the application to close the road;
- (b) the closure is made in accordance with an agreement in writing with the owners of the land affected thereby;



- (c) the closure is of a temporary nature for the purposes of repair or maintenance of the road; or
- (d) the closure is made for a single period of no greater than twenty-four hours in a year for the purpose of preventing the acquisition of prescriptive rights.

When common  
road may be  
closed

(2) No person shall construct or place a barrier or other obstacle over a common road that as a result prevents the use of the road unless,

- (a) the person has made application by way of originating notice of motion to a judge for an order closing the road and has given ninety days notice of the application to the parties and in the manner directed by this Act and the judge has granted the application to close the road; or
- (b) the closure is of a temporary nature for the purposes of repair or maintenance of the road.

Notice

(3) Notice of an application to close an access road that is not a common road shall be served personally upon or sent by registered mail to the owner of each parcel of land served by the road who would, if the road were closed, be deprived of motor vehicle access to and from his land and, where the owner is not occupying the land, notice shall also be given to a tenant or occupant of the land by either,

- (a) handing the notice to an adult person who is a tenant or occupant of the land; or
- (b) posting the notice on the land in a place and manner that makes the notice conspicuous to an occupant of the land.

Idem

(4) Notice of an application to close a common road shall be published at least once a week for four successive weeks in a newspaper that is circulated in the area in which the proposed road closure is located, the last publication to be not less than ninety days before the date fixed for the hearing of the application, and any person who uses the road is entitled to be a party to the proceedings on the application.

Idem

(5) Notice of an application made under subsection (1) or (2) shall be given by registered mail to the clerk of the local municipality and the clerk of the county or regional, district or metropolitan municipality in which the road is situated or, in the case of a road located in territory without municipal organization, notice shall be similarly given to the Minister of Northern Affairs.

(6) An application under subsection (1) or (2) shall be accompanied by an affidavit of the applicant in which shall be included a description of the road sought to be closed, the proposed location of the barrier or other obstacle, the reasons in support of the closure, and, in the case of an application under subsection (1), the names and addresses of the persons who would, if the road were closed, be deprived of access to their lands. 1978, c. 61, s. 2.

Affidavit  
to accompany  
application

3. The judge may grant the closing order upon being satisfied that the closure of the road is reasonably necessary to prevent substantial damage or injury to the interests of the applicant or is reasonably necessary for some purpose in the public interest and the judge may impose such terms and conditions as the judge considers are reasonable and just under the circumstances, including a requirement that a suitable alternate road be provided. 1978, c. 61, s. 3.

When judge  
may grant  
order

4.—(1) Where notice as required under section 2 is not given, a judge may grant upon *ex parte* application an interim closing order if he is satisfied that the delay required to give notice would likely result in serious damage or injury to the interests of the applicant.

Interim  
closing  
order

(2) A judge may make an interim closing order on such terms and conditions and for such duration as the judge considers proper in the circumstances.

Terms  
and  
conditions

(3) A person entitled to notice at the time an interim closing is made may apply to a judge to have the order set aside and the judge may so order where he considers it proper in the circumstances. 1978, c. 61, s. 4.

Setting  
aside  
order

5. An appeal, in accordance with the rules of court, lies from an order of the judge under section 2 or 4 to the Divisional Court. 1978, c. 61, s. 5.

Appeal

6.—(1) Nothing in this Act shall be construed to confer any right in respect of the ownership of land where the right does not otherwise exist at law and nothing in this Act shall affect any alternative remedy at law available to any applicant or other person.

Saving

(2) The granting of a closing order or the dismissal of an application for a closing order under this Act shall not be construed as a determination that the road is or is not a public highway. 1978, c. 61, s. 6.

Order of  
closure or  
dismissal of  
application  
not  
deter-  
mination  
of status of  
road

## Offence

7.—(1) Every person who knowingly contravenes subsection 2 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Order to  
remove  
barricade

(2) Where a person is convicted of an offence under this Act, the court may order the person to remove the barrier or other obstacle. 1978, c. 61, s. 7.

Temporary  
closing of  
forest roads  
R.S.O. 1980,  
c. 413

8. Nothing in this Act prevents the temporary closing of a public forest road or a private forest road within the meaning of the *Public Lands Act* where, in the opinion of the district manager, an emergency exists. 1978, c. 61, s. 8.

## CHAPTER 458

## Royal Ontario Museum Act

**1.** In this Act,Interpre-  
tation

- (a) "Board" means the board of trustees of the Museum;
- (b) "Museum" means The Royal Ontario Museum;
- (c) "Unincorporated Institutions" means the institutions known before the 1st day of July, 1968 as The Royal Ontario Museum and The R. S. McLaughlin Planetarium, whose assets and rights were before that date vested in The Governors of the University of Toronto. R.S.O. 1970, c. 417, s. 1.

**2.—**(1) The Royal Ontario Museum is continued as a <sup>Museum</sup> corporation without share capital consisting of the trustees <sup>corporation</sup> continued for the time being of the Board.

(2) The fiscal year of the Museum commences on the 1st <sup>Fiscal year</sup> day of July in each year and ends on the 30th day of June in the following year. R.S.O. 1970, c. 417, s. 2.

**3.** The objects of the Museum are,Objects of  
Museum

- (a) the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the natural history of Ontario, Canada and the world;
- (b) the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the history of man in all the ages;
- (c) the operation of a planetarium;
- (d) the promotion of education, teaching, research and publication in any or all fields related to the objects of the Museum referred to in clauses (a), (b) and (c). R.S.O. 1970, c. 417, s. 3.

**4.—**(1) The affairs of the Museum shall be managed and <sup>Board of</sup> controlled by a board of trustees, consisting of twenty-one <sup>trustees</sup> trustees.



Trustees,  
*ex officio*

(2) The chairman of The Governing Council of the University of Toronto, the President of the University of Toronto and the Director of the Museum are *ex officio* trustees of the Museum.

Appointment  
and election

(3) Of the remaining eighteen trustees,

(a) fifteen shall be appointed by the Lieutenant Governor in Council; and

(b) three shall be elected by the members of the Museum,

each to hold office for a term of three years.

First  
trustees

(4) Notwithstanding subsection (3),

(a) on the first appointment of trustees under clause (3) (a), five trustees shall be appointed for a one-year term, five trustees shall be appointed for a two-year term and five trustees shall be appointed for a three-year term; and

(b) on the first election of trustees under clause (3) (b), one trustee shall be elected for a one-year term, one trustee shall be elected for a two-year term and one trustee shall be elected for a three-year term,

and in each year thereafter five trustees shall be appointed and one trustee shall be elected as provided in subsection (3).

## Vacancies

(5) Where a vacancy occurs for any reason among the trustees, the vacancy shall be filled by a person appointed or elected by the body that appointed or elected the trustee whose office is vacant, and the person so appointed or elected shall hold office for the remainder of the term of office of the person whose membership is vacant.

Re-election  
and re-  
appointment  
of trustees

(6) Any trustee elected or appointed under subsection (3) is eligible for re-election or reappointment for one additional term, but on the expiration of his second term he is not eligible for re-election or reappointment until at least one year has elapsed from the expiration of such term.

## Quorum

(7) Seven trustees constitute a quorum for meetings of the Board.

## Chairman

(8) One of the members of the Board shall be appointed by the Lieutenant Governor in Council to be its chairman.

(9) The Board may appoint one of its members to be <sup>Vice-</sup>chairman vice-chairman.

(10) The chairman shall preside at all meetings of the <sup>Presiding</sup>Board and, in his absence, the vice-chairman shall preside, <sup>officer</sup>and, in the absence of the chairman and the vice-chairman, the trustees present at a meeting shall appoint one of their number to preside. R.S.O. 1970, c. 417, s. 4.

**5.** The Board has all the powers necessary or convenient <sup>Powers of</sup>to achieve the objects of the Museum and, without limiting <sup>Board</sup>the generality of the foregoing, may,

(a) make by-laws, rules and regulations,

(i) for the administration of the affairs of the Museum,

(ii) governing the use by the public of the facilities, property and equipment of the Museum and requiring the payment of fees for the admission of the public or any class thereof to such facilities and property, and prescribing the amounts of such fees, and

(iii) providing for membership in the Museum and prescribing the qualifications and terms of membership and the fees, if any, to be paid therefor, and providing for and regulating meetings of the members;

(b) appoint a Director of the Museum;

(c) appoint, promote, transfer or remove an Associate Director or Associate Directors and all curators, officers and staff as are necessary for the proper conduct of the affairs of the Museum on the recommendation of the Director;

(d) fix the duties, salaries and qualifications of office or employment and other emoluments of the Director, the Associate Director or Directors, curators, officers and members of the staff of the Museum;

(e) provide for the retirement and superannuation of persons mentioned in clauses (b) and (c);

(f) appoint by resolution a trustee or trustees of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Museum thereto;

- (g) pass a by-law authorizing the trustees to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the Board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the trustees, and authorizing the trustees to fix the quorum of the executive committee at not less than a majority of its members;
- (h) appoint committees from the trustees of the Board and such other committees as are considered desirable, and confer upon any such committees authority to act for the Board with respect to any matter or classes of matters;
- (i) establish, maintain and operate a museum and a planetarium and related facilities as required or convenient for carrying out the objects of the Museum;
- (j) enter into agreements with any association or organization having objects similar to those of the Museum;
- (k) enter into agreements with any governing body of a university, college or school,
  - (i) to provide for the interchange of staff, and
  - (ii) generally in other areas consistent with the objects of the Museum;
- (l) solicit, receive and hold gifts of every nature for any purpose related to the objects of the Museum upon such trusts and conditions as seem proper to the Board, and administer such gifts in accordance with such trusts and conditions; and
- (m) generally conduct and manage the business and affairs of the Museum. R.S.O. 1970, c. 417, s. 5.

Duties and  
powers of  
Director

**6.** The Director is the chief executive officer of the Museum and has general supervision over and direction of the operations of the Museum, and the Associate Director or Directors, curators, officers and staff thereof, and has such other powers and shall perform such other duties as from time to time may be conferred upon or assigned to him by the Board, and without limiting the generality of the foregoing,

- (a) shall make recommendations to the Board as to all appointments to and all promotions in, and removals from the staff of the Museum including the Associate Director or Directors, curators and officers;
- (b) may suspend the Associate Director or Directors, any curator, officer or member of the staff of the Museum, and, forthwith, after suspending any person, shall report his action to the Board with a statement of his reasons therefor; and
- (c) shall report annually to the Board on the affairs of the Museum and make such recommendations thereon as he considers necessary. R.S.O. 1970, c. 417, s. 6.

7.—(1) All property, real and personal, and the undertaking and assets, with all the rights, powers, privileges and immunities vested in, owned, held, possessed or enjoyed by The Governors of the University of Toronto on the 1st day of July, 1968 and which relate to the Unincorporated Institutions, including but not limited to the real property described in the Schedule hereto, are hereby vested in the Museum without the necessity of any other grant, conveyance, transfer, assignment or vesting thereof subject to the provisions of this Act, and the Museum shall assume, satisfy and perform all debts and obligations relating to such property, undertaking and assets and shall indemnify The Governors of the University of Toronto from such debts and obligations.

(2) Without limiting the generality of subsection (1), all gifts, devises, deeds, conveyances, transfers and leases of any real property or of any interest therein and all gifts, bequests, assignments, loans and transfers of any personal property or of any interest therein, which have been or shall hereafter be made or intended for The Governors or Governing Council of the University of Toronto for the purposes of any one or both of the Unincorporated Institutions are hereby vested in the Museum as fully and effectually as if any such gift, devise, deed, conveyance, transfer, lease, loan, bequest or assignment had been made to the Museum, but any property, real or personal, relating to any one or both of the Unincorporated Institutions and vested before the 1st day of July, 1968 in The Governors of the University of Toronto for any special purposes or trusts shall be held for such purposes and trusts, and with, under and subject to the same powers, obligations and provisions as are in force or declared under any statute,

Transfer  
of assets

Rights  
to other  
assets



deed or other instrument affecting such property respectively and any property, real or personal, given, devised, bequeathed, assigned or transferred to or intended for the Museum or for any one or both of the Unincorporated Institutions after the 1st day of July, 1968, shall vest in the Museum and shall be held for the purposes and trusts and with, under and subject to the powers, obligations and provisions as are declared under any statute, deed or other instrument affecting such property respectively, and The Governors or Governing Council of the University of Toronto are relieved of any liability in respect of such property under any such statute, deed or other instrument.

Present  
lands  
vested in  
the Museum  
subject to  
certain  
rights

(3) The lands used before the 1st day of July, 1968 for any one or both of the Unincorporated Institutions that are vested in the Museum by subsection (1), are subject to the right of The Governing Council of the University of Toronto at all times to maintain and operate the tunnels passing through such lands and the works connected therewith constructed for the purpose of the power plant and air conditioning plant of the University of Toronto and to keep them in repair, and the right at all times as occasion may require to enter upon such lands and the buildings thereon for the purpose of inspecting, maintaining and repairing such tunnels and works, and to do all things that may be necessary or convenient for that purpose. R.S.O. 1970, c. 417, s. 7, *revised*.

Property

R.S.O. 1980,  
c. 219

8. The Museum has, in addition to the powers, rights and privileges mentioned in section 26 of the *Interpretation Act*, power to purchase or otherwise acquire, take or receive by gift, bequest or devise and to hold and enjoy, any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the same or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof without licence in mortmain and without limitation as to the period of holding. R.S.O. 1970, c. 417, s. 8.

Exemption  
from  
taxation

9. The Museum and its real and personal property, business and income are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1970, c. 417, s. 9.

Property of  
Museum  
not liable  
to exprop-  
riation

10. Real property vested in the Museum is not liable to be entered upon, used or taken by any corporation, except a municipal corporation, or by any person possessing the right of taking real property compulsorily for any purpose, and no power to expropriate real property conferred on or after the 1st day of July, 1968 shall extend to such

property unless in the Act conferring the power it is made in express terms to apply thereto. R.S.O. 1970, c. 417, s. 10.

**11.**—(1) The Board may borrow money upon the credit of the Museum, and may issue bonds, debentures or other securities of the Museum, and may pledge or sell them for such sums or at such prices as may be considered expedient or necessary, and may hypothecate, mortgage or pledge all or any of the real or personal property, rights or powers of the Museum to secure any bonds, debentures or other securities and any indebtedness of or money borrowed for the purposes of the Museum. <sup>Borrowing powers</sup>

(2) The amount that may be borrowed under subsection (1) together with the total amount of any such borrowings that remain unpaid shall not exceed at any one time \$100,000 without the approval of the Lieutenant Governor in Council, but a lender is not bound to inquire as to the compliance by the Museum with this subsection and where any loan is made it shall be deemed to have been lawfully made under the authority of this section. R.S.O. 1970, c. 417, s. 11. <sup>Limitation</sup>

**12.** The property and the income, revenues, issues and profits of all property of the Museum shall be applied solely to achieving the objects of the Museum. R.S.O. 1970, c. 417, s. 12. <sup>Application of property</sup>

**13.** The funds of the Museum not immediately required for its purposes and the proceeds of all property that come to the Museum, subject to any trust or trusts affecting the same, may be invested and reinvested in such investments as the Board considers meet. R.S.O. 1970, c. 417, s. 13. <sup>Investment of funds</sup>

**14.** The accounts and financial transactions of the Museum shall be audited annually by an auditor or auditors appointed by the Board. R.S.O. 1970, c. 417, s. 14. <sup>Audit</sup>

**15.** The Board shall make a report annually to the Lieutenant Governor in Council and shall make such other reports as he may request from time to time. R.S.O. 1970, c. 417, s. 15. <sup>Report</sup>

**16.** Nothing in this Act authorizes the Board to alienate, hypothecate, mortgage or pledge any real or personal property given, devised or bequeathed with a condition annexed to such gift that the property shall not be alienated, hypothecated, mortgaged or pledged. R.S.O. 1970, c. 417, s. 16. <sup>Trust property</sup>

## SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in the County of York and Province of Ontario, being composed of Lots 50, 53 and part of Lot 70 according to a Plan filed in the Registry Office for the Registry Division of Toronto as No. D-178 the part of a Road closed by a Plan filed in the said Registry Office as No. 207E, Block B according to a Plan filed in the said Registry Office as No. 211E, Block A according to a Plan filed in the said Registry Office as No. 225E, and parts of Lots 1 and 2 according to a Plan filed in the said Registry Office as No. 452-E, the boundaries of the said parcel of land being described as follows:

COMMENCING at a point in the westerly limit of Queen's Park Drive, where the same is intersected by the southerly limit of Bloor Street West as widened by By-law No. 9416 of the Municipal Corporation of the City of Toronto, the said point of intersection being distant thirteen feet ten and one-quarter inches ( $13' 10\frac{1}{4}"$ ) more or less measured southerly along the said westerly limit from the northerly limit of lands included in the said Plan No. 452-E;

THENCE westerly along the southerly limit of Bloor Street West widened as aforesaid, a distance of one hundred and seventy-one feet seven and three-quarter inches ( $171' 7\frac{3}{4}"$ ) more or less to an angle therein;

THENCE continuing westerly along the said southerly limit of Bloor Street West, a distance of two hundred and seven feet one inch ( $207' 1"$ ) more or less to the point of intersection thereof with the westerly limit of the said Lot 2 according to Plan No. 452-E;

THENCE southerly along the last mentioned westerly limit a distance of five hundred and twenty feet four and one-quarter inches ( $520' 4\frac{1}{4}"$ ) more or less to the southwesterly angle of the said Lot 2;

THENCE easterly along the southerly limit of the said Lot 2, a distance of one hundred and eighty-five feet ( $185' 0"$ ) more or less to the southeasterly angle of Lot 2 aforesaid;

THENCE southerly along the westerly limit of the said Lot 70 according to Plan No. D-178, a distance of one hundred and one feet and one-half inch ( $101' 0\frac{1}{2}"$ ) more or less to a point therein distant fifty-eight feet six inches ( $58' 6"$ ) measured northerly thereon from the southerly limit of the said Lot 70;

THENCE easterly parallel with the said southerly limit of Lot 70, a distance of two hundred feet ( $200' 0"$ ) more or less to the point of intersection thereof with the said westerly limit of Queen's Park Drive;

THENCE northerly along the said westerly limit of Queen's Park Drive, a distance of six hundred and twenty-three feet four and three-quarter inches ( $623' 4\frac{3}{4}"$ ) more or less to the said point of commencement;

SUBJECT TO an easement for subway purposes in favour of The Municipality of Metropolitan Toronto as described in an Instrument filed in the said Registry Office as No. 122702 E.P.

## CHAPTER 459

## Rural Housing Assistance Act

**1.**—(1) There shall be incorporated under the *Corporations Act* a company with the name “The Rural Housing Finance Corporation”, herein called “the Company”, with power to lend and invest money on mortgage of real estate in order to provide financial assistance in the building of houses in rural villages and hamlets and in other rural areas.

Lending  
corporation  
to be  
created  
R.S.O. 1980,  
c. 95

(2) Notwithstanding subsection 4 (3) of the *Corporations Act*, the Company may issue bonds, debentures or debenture stock. R.S.O. 1970, c. 418, s. 1.

Power  
to issue  
debentures

**2.** The Company may exercise its power of lending money independently or in co-operation with Central Mortgage and Housing Corporation under the *National Housing Act* (Canada) or with any other corporation incorporated for similar purposes. R.S.O. 1970, c. 418, s. 2.

Exercise  
of powers  
R.S.C. 1970,  
c. N-10

**3.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to purchase or to guarantee the payment of any notes, bonds, debentures or debenture stock issued by the Company.

Provincial  
guarantee

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Form of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever. R.S.O. 1970, c. 418, s. 3.

Validity of  
guaranty

**4.**—(1) The Lieutenant Governor in Council may advance moneys by way of loan or otherwise to the Company for its purposes.

Provincial  
advance  
on loans

(2) Any moneys advanced or loaned to the Company by the Crown under this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 418, s. 4.

Idem

**5.** The cost of administration of this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 418, s. 5.

Cost of  
adminis-  
tration



Administra-  
tion of Act

6. This Act shall be administered by the Minister of Housing or such other member of the Executive Council to whom it may be assigned by the Lieutenant Governor in Council. R.S.O. 1970, c. 418, s. 6, *revised*.

## CHAPTER 460

## Rural Hydro-Electric Distribution Act

1. Upon the recommendation of Ontario Hydro and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any commission or municipal corporation distributing power in the rural power district under the *Power Corporation Act*, a sum not exceeding 50 per cent of the capital cost of acquiring and constructing in the rural power district, lands and works, including plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment, for the supply of power to any customer or premises up to the point of delivery by such commission or corporation. R.S.O. 1970, c. 419, s. 1; 1973, c. 57, s. 19.

Grants in aid of distribution works in rural power districts

R.S.O. 1980, c. 384

2. Upon the recommendation of Ontario Hydro and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to the corporation of a township or of an urban municipality supplying or distributing electrical power or energy in an adjoining township or within a rural power district under the *Public Utilities Act* or any other general or special Act, a sum not exceeding 50 per cent of the capital cost of constructing or erecting in such adjoining township or rural power district primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power or energy in such adjoining township or in such rural power district. R.S.O. 1970, c. 419, s. 2; 1973, c. 57, s. 19.

Grants in aid of works in townships or urban municipality adjoining township in rural power district

R.S.O. 1980, c. 423

3. All sums paid to any commission or municipal corporation under the authority of section 1 or 2 shall be chargeable in the books of the Treasurer of Ontario as expenditure upon capital account. R.S.O. 1970, c. 419, s. 3.

Grants chargeable to capital account



## CHAPTER 461

## Rural Power District Loans Act

## 1. In this Act,

Interpre-  
tation

(a) "Corporation" means Ontario Hydro;

(b) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 420, s. 1; 1973, c. 57, s. 19.

2.—(1) The Lieutenant Governor in Council may set apart <sup>Fund set  
apart</sup> out of the Consolidated Revenue Fund a sum not exceeding \$2,000,000 for the purpose of providing advances towards the installation of electrical services in the rural power district.

(2) The Lieutenant Governor in Council may from time to time direct that such payments be made to the Corporation <sup>Payments  
out of fund  
to Corpora-  
tion</sup> out of the moneys so set apart as the Corporation may report to be necessary in order to enable advances to be made under this Act.

(3) Subject to the regulations, the installation in respect of <sup>Installation  
to include</sup> which aid may be granted under this Act includes,

(a) wiring from the transmission or distribution lines of the Corporation into and throughout dwellings, barns, out-houses and any other works that may from time to time be specified in the regulations;

(b) such transformers, motors and other appliances as may be necessary or expedient for any industrial, agricultural or domestic purposes or which may be specified in the regulations. R.S.O. 1970, c. 420, s. 2.

3.—(1) A person assessed as owner and being the actual <sup>Application  
for advance</sup> owner of lands and premises in the rural power district desiring to procure an advance under this Act may make application, in the form prescribed by the regulations, to the Corporation.

(2) The application shall not be acted upon unless it is <sup>Proofs to  
accompany  
application</sup> accompanied by the declaration of the applicant stating that he is the actual owner of the lands and premises mentioned in the application and that they are free from encumbrance, or if the lands and premises, or any part thereof, are mort-



gaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and where the mortgage or encumbrance has been assigned, the name and address of the assignee.

Notice to  
encum-  
brancers

(3) Where it appears that there is a mortgage or encumbrance upon the lands or premises or any part thereof, the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter sent to him by the secretary of the Corporation to his last-known address. R.S.O. 1970, c. 420, s. 3.

Limit of  
amount of  
advance

4. An advance under this Act shall not exceed in amount the sum of \$1,000 in the case of any owner, and every advance is repayable with interest within twenty years at the furthest. R.S.O. 1970, c. 420, s. 4.

Control as  
to installa-  
tion and  
specifica-  
tions

5. Every installation in respect of which an advance is made under this Act shall be made in such manner and according to such specifications as the Corporation may prescribe and the work of installation is subject to the approval of the Corporation and no advance shall be made under this Act except upon the recommendation of the Corporation. R.S.O. 1970, c. 420, s. 5.

Repayment  
of advance

6.—(1) Every advance made under this Act is a debt due from the owner of the lands and premises upon which the installation is made to the Corporation and is repayable to the Corporation at the time and in such manner as may be prescribed by the regulations, and the amounts so received by the Corporation shall be transmitted to the Treasurer of Ontario.

Default in  
repayment  
of advance

(2) Where default is made in the repayment of any advance under this Act, or in any instalment thereof, or in the payment of interest thereon, the Corporation may give notice in writing of such default to the clerk of the municipality in which the lands and premises are situate, and the amount in default shall thereupon be inserted in the collector's roll as a tax in the same manner as in the case of municipal taxes, and when collected shall be paid over by the treasurer of the municipality to the Corporation. R.S.O. 1970, c. 420, s. 6.

Registration  
of notice  
of lien

7.—(1) The Corporation shall cause a notice of the advance, in the form prescribed by the regulations, to be registered in the proper land registry office and such registration is notice to subsequent purchasers or mortgagees or other encumbrancers that the advance made under this Act is a lien or charge upon the lands and premises owned by the applicant.

(2) Where notice has been registered under subsection (1) <sup>Registration of certificate of repayment</sup> and the advance has been subsequently repaid, a certificate of repayment in the form prescribed by the regulations may be delivered to the owner of the lands and premises and may be registered by him, and such registration has the effect of discharging the lien or charge.

(3) The fee for registering a notice or certificate of repay- <sup>Fee</sup>ment under this section is 50 cents. R.S.O. 1970, c. 420, s. 7.

8.—(1) The property in any works installed in respect of <sup>Property in works to be in Corporation until advance repaid</sup> which an advance is made under this Act is, while such advance remains unpaid, in the Corporation, and in addition to any other remedy, in case of default in repayment of the advance, or of any instalment thereof, or in the payment of interest thereon, the Corporation may by its officers, servants and agents enter upon the premises and take possession of and remove transformers, motors or other appliances or fixtures forming part of such installation.

(2) A chattel mortgage, lien note or other instrument <sup>Priority over lien note, etc.</sup> registered or filed, or any judgment or other legal process does not have priority over the lien created by an advance from the Corporation under this Act. R.S.O. 1970, c. 420, s. 8.

9. The Lieutenant Governor in Council may make regula- <sup>Regulations</sup>tions prescribing the terms and conditions upon which advances may be made under this Act and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 420, s. 9.



## CHAPTER 462

### Sale of Goods Act

#### 1.—(1) In this Act,

Interpre-  
tation

- (a) “action” includes a counterclaim and a set off;
- (b) “buyer” means the person who buys or agrees to buy goods;
- (c) “contract of sale” includes an agreement to sell as well as a sale;
- (d) “delivery” means the voluntary transfer of possession from one person to another;
- (e) “document of title” includes a bill of lading and warehouse receipt as defined by the *Mercantile Law Amendment Act*, any warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented; R.S.O. 1980,  
c. 265
- (f) “fault” means a wrongful act or default;
- (g) “goods” means all chattels personal, other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;
- (h) “plaintiff” includes a defendant counterclaiming;
- (i) “property” means the general property in goods and not merely a special property;
- (j) “quality of goods” includes their state or condition;
- (k) “sale” includes a bargain and sale as well as a sale and delivery;



(l) "seller" means a person who sells or agrees to sell goods;

(m) "specific goods" means the goods identified and agreed upon at the time the contract of sale is made;

(n) "warranty" means an agreement with reference to goods that are the subject of a contract of sale but collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

Things  
done in  
good faith

(2) A thing shall be deemed to be done in good faith within the meaning of this Act when it is in fact done honestly whether it is done negligently or not.

What  
deemed  
insolvency

(3) A person shall be deemed to be insolvent within the meaning of this Act who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

Deliverable  
state

(4) Goods shall be deemed to be in a "deliverable state" within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them. R.S.O. 1970, c. 421, s. 1.

## PART I

### FORMATION OF THE CONTRACT

Sale and  
agreement  
to sell

2.—(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in the goods to the buyer for a money consideration, called the price, and there may be a contract of sale between one part owner and another.

Absolute or  
conditional

(2) A contract of sale may be absolute or conditional.

What  
constitutes  
a sale or  
agreement  
to sell

(3) Where under a contract of sale the property in goods is transferred from the seller to the buyer, the contract is called a sale, but, where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

When  
agreement  
becomes  
sale

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.S.O. 1970, c. 421, s. 2.

**3.**—(1) Capacity to buy and sell is regulated by the <sup>Capacity</sup> general law concerning capacity to contract and to transfer and acquire property, but where necessities are sold and delivered to a minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he shall pay a reasonable price therefor.

(2) Necessaries in this section mean goods suitable to the <sup>What</sup> conditions in life of the minor or other person and to <sup>deemed</sup> his actual requirements at the time of the sale and delivery. <sup>necessaries</sup> R.S.O. 1970, c. 421, s. 3.

**4.** Subject to this Act and any statute in that behalf, a <sup>Contract,</sup> contract of sale may be made in writing, either with or <sup>how made</sup> without seal, or by word of mouth or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties, but nothing in this section affects the law relating to corporations. R.S.O. 1970, c. 421, s. 4.

**5.**—(1) A contract for the sale of goods of the value of <sup>Contracts</sup> \$40 or more is not enforceable by action unless the buyer <sup>for \$40 or</sup> accepts part of the goods so sold and actually receives <sup>more</sup> them, or gives something in earnest to bind the contract or in part payment, or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

(2) This section applies to every such contract notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured, or provided, or fit or ready for <sup>Future</sup> delivery, or some act may be requisite for the making or completing thereof, or rendering them fit for delivery.

(3) There is an acceptance of goods within the meaning <sup>Acceptance</sup> of this section when the buyer does any act in relation to <sup>of goods,</sup> the goods that recognizes a pre-existing contract of sale, <sup>what</sup> whether there is an acceptance in performance of the <sup>constitutes</sup> contract or not. R.S.O. 1970, c. 421, s. 5.

**6.**—(1) The goods that form the subject of a contract of <sup>What goods</sup> sale may be either existing goods owned or possessed by <sup>may be</sup> the seller or goods to be manufactured or acquired by the <sup>subject of</sup> seller after the making of the contract of sale, in this Act <sup>contract</sup> called "future goods".

(2) There may be a contract for the sale of goods the <sup>Contingency</sup> acquisition of which by the seller depends upon a contingency that may or may not happen.

Sale of  
future goods

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods. R.S.O. 1970, c. 421, s. 6.

Goods  
that have  
perished

7. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time the contract is made, the contract is void. R.S.O. 1970, c. 421, s. 7.

Goods  
perishing  
before sale  
but after  
agreement  
to sell

8. Where there is an agreement to sell specific goods and subsequently the goods without any fault of the seller or buyer perish before the risk passes to the buyer, the agreement is thereby avoided. R.S.O. 1970, c. 421, s. 8.

Price  
determined

9.—(1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

Where  
price not  
determined

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay a reasonable price, and what constitutes a reasonable price is a question of fact dependent on the circumstances of each particular case. R.S.O. 1970, c. 421, s. 9.

Agreement  
to sell at  
valuation

10.—(1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make the valuation, the agreement is avoided, but if the goods or any part thereof have been delivered to and appropriated by the buyer, he shall pay a reasonable price therefor.

Valuation  
prevented  
by act of  
party

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.S.O. 1970, c. 421, s. 10.

Stipulations  
as to time

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not of the essence of a contract of sale, and whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. R.S.O. 1970, c. 421, s. 11.

When  
condition  
to be  
treated a  
warranty

12.—(1) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract, and a stipulation may be a condition, though called a warranty in the contract.

Stipulation  
which may be  
condition or  
warranty

(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

Where  
breach of  
condition to  
be treated  
as breach of  
warranty

(4) Nothing in this section affects the case of a condition or warranty, fulfillment of which is excused by law by reason of impossibility or otherwise. R.S.O. 1970, c. 421, s. 12.

Fulfillment  
excused by  
impossibility

**13.** In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is,

Implied  
conditions  
and  
warranties

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;
- (b) an implied warranty that the buyer will have and enjoy quiet possession of the goods; and
- (c) an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made. R.S.O. 1970, c. 421, s. 13.

**14.** Where there is a contract for the sale of goods by description, there is an implied condition that the goods will correspond with the description, and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. R.S.O. 1970, c. 421, s. 14.

Sale by  
description



Implied  
conditions  
as to  
quality or  
fitness

**15.** Subject to this Act and any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:

1. Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description that it is in the course of the seller's business to supply (whether he is the manufacturer or not), there is an implied condition that the goods will be reasonably fit for such purpose, but in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose.
2. Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not), there is an implied condition that the goods will be of merchantable quality, but if the buyer has examined the goods, there is no implied condition as regards defects that such examination ought to have revealed.
3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
4. An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith. R.S.O. 1970, c. 421, s. 15.

Sale by  
sample

**16.—(1)** A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Implied  
conditions

**(2)** In the case of a contract for sale by sample, there is an implied condition,

- (a) that the bulk will correspond with the sample in quality;
- (b) that the buyer will have a reasonable opportunity of comparing the bulk with the sample; and

- (c) that the goods will be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample. R.S.O. 1970, c. 421, s. 16.

## PART II

### EFFECTS OF THE CONTRACT

**17.** Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer until the goods are ascertained. R.S.O. 1970, c. 421, s. 17. Goods must be ascertained

**18.—(1)** Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. Property passes where intended to pass

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. R.S.O. 1970, c. 421, s. 18. Ascertaining intention

**19.** Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer: Rules for ascertaining intention

*Rule 1.*—Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed.

*Rule 2.*—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

*Rule 3.*—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

*Rule 4.*—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms, the property therein passes to the buyer;

- (i) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
- (ii) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time, and what is a reasonable time is a question of fact.

*Rule 5.*—(i) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer, and such assent may be expressed or implied and may be given either before or after the appropriation is made.

- (ii) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal, he shall be deemed to have unconditionally appropriated the goods to the contract. R.S.O. 1970, c. 421, s. 19.

Reservation  
of right of  
disposal

**20.**—(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled, and in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller have been fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller *prima facie* reserves the right of disposal. Goods deliverable to order of seller

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he unlawfully retains the bill of lading, the property in the goods does not pass to him. R.S.O. 1970, c. 421, s. 20. Where seller draws on buyer and sends draft with bill of lading

**21.** Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but, when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not, but, Risk prima facie passes with property

- (a) where delivery has been delayed through the fault of either the buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault; and
- (b) nothing in this section affects the duties or liabilities of either seller or buyer as a bailee of the goods of the other party. R.S.O. 1970, c. 421, s. 21.

**22.** Subject to this Act, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell but nothing in this Act affects, Sale by person other than owner

- (a) the *Factors Act* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof; or R.S.O. 1980, c. 150
- (b) the validity of any contract of sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.S.O. 1970, c. 421, s. 22.

**23.** The law relating to market overt does not apply to a sale of goods that takes place in Ontario. R.S.O. 1970, c. 421, s. 23. Law as to market overt does not apply



Sale under  
voidable  
title

**24.** When the seller of goods has a voidable title thereto but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, if he buys them in good faith and without notice of the seller's defective title. R.S.O. 1970, c. 421, s. 24.

Seller in  
possession  
after sale

**25.**—(1) Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under a sale, pledge or other disposition thereof to a person receiving the goods or documents of title in good faith and without notice of the previous sale, has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the delivery or transfer.

Buyer in  
possession  
after sale

(2) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under a sale, pledge or other disposition thereof to a person receiving the goods or documents of title in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Security  
interests  
excepted

R.S.O. 1980,  
c. 375

(3) Subject to subsection (5), subsection (2) does not apply to goods the possession of which has been obtained by a buyer under a security agreement whereby the seller retains a security interest within the meaning of the *Personal Property Security Act*, and the rights of the parties shall be determined by that Act.

Interpre-  
tation

(4) In this section, "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods.

Commence-  
ment of  
subs. (3)

(5) Subsection (3) comes into force on a day to be named by proclamation of the Lieutenant Governor. R.S.O. 1970, c. 421, s. 25.

## PART III

## PERFORMANCE OF THE CONTRACT

**26.** It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. R.S.O. 1970, c. 421, s. 26. Duties of seller and buyer

**27.** Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer shall be ready and willing to pay the price in exchange for possession of the goods. R.S.O. 1970, c. 421, s. 27. Payment and delivery concurrent

**28.**—(1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties, and apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he has one, and if not, his residence, but where the contract is for the sale of specific goods that to the knowledge of the parties, when the contract is made, are in some other place, then that place is the place of delivery. Rules as to delivery

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time. Where no time for delivery fixed

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by the seller to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf, but nothing in this section affects the operation of the issue or transfer of any document of title to goods. Where goods in possession of third person

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour, and what is a reasonable hour is a question of fact. Demand or tender of delivery

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods in a deliverable state shall be borne by the seller. R.S.O. 1970, c. 421, s. 28. Expenses of putting goods in deliverable state

**29.**—(1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may Delivery of wrong quantity

reject them, but if the buyer accepts the goods so delivered, he shall pay for them at the contract rate.

Where  
quantity  
larger than  
contracted  
for

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole, and if the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

Goods  
not in  
accordance  
with contract

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest, or he may reject the whole.

Exceptions  
as to trade  
customs, etc.

(4) This section is subject to any usage of trade, special agreement or course of dealing between the parties. R.S.O. 1970, c. 421, s. 29.

Delivery by  
instalments

**30.**—(1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

Where  
instalments  
are not  
delivered as  
contracted  
for

(2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or fails to deliver one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.S.O. 1970, c. 421, s. 30.

Delivery  
to carrier

**31.**—(1) Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, the delivery of the goods to a carrier whether named by the buyer or not, for the purpose of transmission to the buyer, is *prima facie* a delivery of the goods to the buyer.

Seller's  
contract  
with carrier

(2) Unless otherwise authorized by the buyer, the seller shall make a contract with the carrier on behalf of the buyer that is reasonable having regard to the nature of the goods and the other circumstances of the case, and if the seller omits so to do and the goods are lost or damaged in course of transit, the buyer may decline to

treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages. R.S.O. 1970, c. 421, s. 31.

**32.** Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer nevertheless, unless otherwise agreed, takes any risk of deterioration in the goods necessarily incident to the course of transit. R.S.O. 1970, c. 421, s. 32.

Agreement  
for delivery  
elsewhere  
than at  
place of  
sale

**33.—**(1) Where goods are delivered to the buyer that he has not previously examined, he shall be deemed not to have accepted them until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

Rights of  
buyer as to  
examination

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he shall, on request, afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.S.O. 1970, c. 421, s. 33.

Seller to  
afford  
opportunity  
for  
examination

**34.** The buyer shall be deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. R.S.O. 1970, c. 421, s. 34.

Acceptance  
of goods

**35.** Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them. R.S.O. 1970, c. 421, s. 35.

Effect of  
refusal to  
accept

**36.** When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods, but nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. R.S.O. 1970, c. 421, s. 36.

Wrongful  
neglect or  
refusal to  
take  
delivery



## PART IV

## RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Interpre-  
tation

**37.**—(1) The seller of goods shall be deemed to be an “unpaid seller” within the meaning of this Act,

- (a) when the whole of the price has not been paid or tendered;
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

Idem

(2) In this Part, “seller” includes a person who is in the position of a seller, as for instance an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid or is directly responsible for the price. R.S.O. 1970, c. 421, s. 37.

Rights of  
unpaid  
seller

**38.**—(1) Subject to this Act and any statute in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law,

- (a) a lien on the goods or right to retain them for the price while he is in possession of them;
- (b) in case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;
- (c) a right of resale as limited by this Act.

Withholding  
delivery

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with the rights of lien and stoppage in transitu where the property has passed to the buyer. R.S.O. 1970, c. 421, s. 38.

Unpaid  
seller's lien

**39.**—(1) Subject to this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price,

- (a) where the goods have been sold without any stipulation as to credit;

(b) where the goods have been sold on credit but the term of credit has expired; or

(c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. R.S.O. 1970, c. 421, s. 39.

Seller in possession as agent

**40.** Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien or retention on the remainder unless the part delivery has been made under such circumstances as show an agreement to waive the lien or right of retention. R.S.O. 1970, c. 421, s. 40.

Where part delivery has been made

**41.**—(1) The unpaid seller of goods loses his lien or right of retention thereon,

Termination of lien

(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods; or

(c) by waiver thereof.

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment for the price of the goods. R.S.O. 1970, c. 421, s. 41.

Lien not lost by obtaining judgment for price

**42.** Subject to this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu, that is to say, he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price. R.S.O. 1970, c. 421, s. 42.

Right of stoppage in transitu

**43.**—(1) Goods shall be deemed to be in course of transit from the time they are delivered to a carrier by land or water or other bailee for the purpose of transmission to the buyer until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

Duration of transit

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

Buyer obtaining delivery

Carrier  
holding  
goods to  
buyer's  
order

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

Rejected  
goods

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit shall be deemed not to be at an end even if the seller has refused to receive them back.

Ship  
chartered  
by buyer

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

Wrongful  
refusal to  
deliver

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit shall be deemed to be at an end.

Where part  
delivery  
has been  
made

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transitu unless the part delivery has been made under such circumstances as show an agreement to give up possession of the whole of the goods. R.S.O. 1970, c. 421, s. 43.

How right  
may be  
exercised

**44.**—(1) The unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are, and such notice may be given either to the person in actual possession of the goods or to his principal, and in the latter case the notice to be effectual shall be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer.

Redelivery  
after  
notice to  
carrier, etc.

(2) When notice of stoppage in transitu is given by the seller to the carrier or other bailee in possession of the goods, he shall redeliver the goods to or according to the directions of the seller, and the expenses of such redelivery shall be borne by the seller. R.S.O. 1970, c. 421, s. 44.

Effect of  
subsale or  
pledge by  
buyer

**45.** Subject to this Act, the unpaid seller's right of lien or retention or stoppage in transitu is not affected by any sale or other disposition of the goods that the

buyer may have made, unless the seller has assented thereto, but where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if the last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage in transitu is defeated, and if the last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee. R.S.O. 1970, c. 421, s. 45.

**46.**—(1) Subject to this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transitu. Exercise of right of lien or stoppage. effect on contract

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage in transitu resells the goods, the buyer acquires a good title thereto as against the original buyer. Title of buyer on resale

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract. Resale and right to damages for breach of contract

(4) Where the seller expressly reserves a right of resale in case the buyer should make default, and on the buyer making default, resells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages. R.S.O. 1970, c. 421, s. 46. Where resale rescinds contract

## PART V

### ACTIONS FOR BREACH OF THE CONTRACT

**47.**—(1) Where, under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods. Seller may maintain action for price

(2) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay the price, the seller Where property in goods has not passed



may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. R.S.O. 1970, c. 421, s. 47.

Action  
for non-  
acceptance

**48.**—(1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

Measure of  
damages

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

Difference  
in price

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept. R.S.O. 1970, c. 421, s. 48.

Buyer may  
maintain  
action for  
non-delivery

**49.**—(1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

Measure of  
damages

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

Difference  
in price

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver. R.S.O. 1970, c. 421, s. 49.

Specific  
performance

**50.** In an action for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, direct that the contract be performed specifically, without giving the defendant the option of retaining the goods on payment of damages, and may impose such terms and conditions as to damages, payment of the price, and otherwise, as to the court seems just. R.S.O. 1970, c. 421, s. 50.

Breach of  
warranty

**51.**—(1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat a breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason

only of such breach of warranty entitled to reject the goods, but he may,

(a) set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty. Measure of damages

(3) In the case of breach of warranty of quality, such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty. Breach of warranty as to quality

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. Right of action  
R.S.O. 1970, c. 421, s. 51.

**52.** Nothing in this Act affects the right of the buyer or the seller to recover interest or special damages in a case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed. R.S.O. 1970, c. 421, s. 52. Other rights of buyer preserved

## PART VI

### SUPPLEMENTARY

**53.** Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract. R.S.O. 1970, c. 421, s. 53. Exclusion of implied laws and conditions

**54.** Where by this Act any reference is made to a "reasonable time", the question of what is a reasonable time is a question of fact. R.S.O. 1970, c. 421, s. 54. Reasonable time a question of fact

**55.** Where any right, duty or liability is declared by this Act, it may, unless otherwise provided by this Act, be enforced by action. R.S.O. 1970, c. 421, s. 55. Rights enforceable by action

Sales by  
auction

**56.** In case of a sale by auction,

- (a) where goods are put up for sale in lots, each lot is *prima facie* the subject of a separate contract of sale;
- (b) a sale is complete when the auctioneer announces its completion by the fall of a hammer or in any other customary manner, and until such announcement is made any bidder may retract his bid;
- (c) where a sale is not notified to be subject to a right to bid on behalf of the seller, it is not lawful for the seller to bid himself or to employ a person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer;
- (d) a sale may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller;
- (e) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction. R.S.O. 1970, c. 421, s. 56.

Application  
of common  
law and law  
merchant

**57.—(1)** The rules of the common law, including the law merchant, except in so far as they are inconsistent with the express provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause, continue to apply to contracts for the sale of goods.

Bills of sale,  
etc., not  
affected

**(2)** Nothing in this Act affects enactments relating to conditional sales, bills of sale or chattel mortgages.

Act not to  
apply to  
mortgages,  
etc.

**(3)** The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security. R.S.O. 1970, c. 421, s. 57.

## CHAPTER 463

## Sanatoria for Consumptives Act

## 1. In this Act,

Interpre-  
tation

- (a) "local municipality" means a city, town, village or township;
- (b) "medical officer of health" means a medical officer of health appointed under the *Public Health Act* or a person having the powers of such an officer; R.S.O. 1980, c. 409
- (c) "Minister" means the Minister of Health;
- (d) "patient" means a person admitted to a sanatorium for the purpose of treatment;
- (e) "resident" means a person who has actually resided in a local municipality for the period of three months within the six months next prior to admission to a sanatorium;
- (f) "sanatorium" means any sanatorium, institution, building or other premises or place, howsoever created, established or incorporated for the treatment of patients;
- (g) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a sanatorium;
- (h) "territorial district" means a territorial district under the *Territorial Division Act*; R.S.O. 1980, c. 497
- (i) "treatment" means the stay, maintenance, observation, care, nursing and treatment of a patient who has or is suspected of having tuberculous disease;
- (j) "unorganized territory" means that part of a territorial district that is without municipal organization. R.S.O. 1970, c. 422, s. 1; 1972, c. 1, s. 1, revised.

2.—(1) A medical officer of health may require any person who is resident in the municipality or district for which he is medical officer of health and who is suspected by him to be Medical officer may require examination



suffering from tuberculosis or who has been in contact with any person suffering from tuberculosis or who has been a patient in a sanatorium, to submit to such examination for tuberculosis as he may direct.

Notice (2) In requiring a person to submit to an examination under this section, the medical officer of health shall serve such person or, in the case of a minor, the parent or guardian of the minor, with a notice in writing signed by him, specifying the nature, time and place of the examination.

Offence (3) Any person served with a notice who fails to carry out an order or direction contained therein is guilty of an offence and on conviction may be committed to a sanatorium for a period of not more than fourteen days to receive the examination considered necessary by the superintendent of the sanatorium to determine if the person is suffering from tuberculosis in an infectious state.

Expenses (4) Any expenses incurred by a medical officer of health under this section shall be paid by the local municipality for which he is appointed and, in the case of a medical officer of health appointed to act in unorganized territory, such expenses shall be paid by the Ministry. R.S.O. 1970, c. 422, s. 45; 1972, c. 1, s. 1.

Information **3.**—(1) Any medical officer of health or legally qualified medical practitioner may, with the approval in writing of the Minister, make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clauses (5) (a), (b) and (c) exist with regard to any person named in the information.

Issue of summons (2) Upon receiving any such information, the justice of the peace shall hear and consider the allegations of the informant and, if he considers it desirable or necessary, the evidence of any witness or witnesses, and, if he is of the opinion that a case for so doing is made out, he shall issue a summons directed to the person complained of, requiring him to appear before a provincial judge at a time and place named therein.

Issue of warrant (3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, the provincial judge may issue a warrant directing that the person named in the summons be brought before him.

Provincial judge's inquiry (4) Where a person appears or is brought before a provincial judge under this section, the judge shall inquire into the truth of the matters charged in the information, and for such purpose shall proceed in the manner prescribed by the *Provincial*

R.S.O. 1980, c. 400

*Offences Act* and has all the powers of a provincial judge holding a hearing under that Act.

(5) Where a provincial judge finds that any such person, Order for detention

- (a) is suffering from pulmonary tuberculosis in an infectious state;
- (b) is unwilling or unable to conduct himself in such a manner as not to expose members of his family or other persons to danger of infection; and
- (c) refuses to be admitted or to remain in a sanatorium or has left a sanatorium against the advice of the superintendent thereof,

he shall order that such person be admitted to and detained in a sanatorium or in such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the judge considers necessary.

(6) Any person who appears or is summoned to appear before a provincial judge under this section may retain a legally qualified medical practitioner to give evidence on his behalf, and the fees of the medical practitioner shall be deemed to be part of the expenses of the proceedings and payable as provided by subsection 8 (3). Fees of medical practitioner retained

(7) In any inquiry under this section, upon production of a certificate signed or purporting to be signed by the director of a laboratory approved by the Minister as to the presence of tubercle bacilli in the sputum of any person, such certificate is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature. Laboratory certificate

(8) Any person detained pending a hearing under this section or pending his removal to a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons shall be detained in a sanatorium or such other safe and comfortable place as a justice of the peace or provincial judge directs. Detention pending inquiry or removal

(9) The Minister may direct the transfer of a person detained under this section to any sanatorium, hospital or any other place when he considers such transfer is necessary for the welfare of the patient. Transfer of patients

(10) Any person detained under this section may, with the approval in writing of the Minister, be brought before a provincial judge at any time during the last thirty days of the period Extension of detention

for which he is so detained, and, if the judge finds that he is still suffering from pulmonary tuberculosis in an infectious state, the judge may order that he be further detained in a sanatorium or such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the judge considers necessary. R.S.O. 1970, c. 422, s. 46.

Examination  
by physician  
in charge

4.—(1) Where a physician having medical charge of a correctional institution or training school suspects that a person under his charge is suffering from tuberculosis, he may or, if directed by the proper medical officer of health, he shall cause the person to undergo the necessary examination to ascertain if the person has tuberculosis or to ascertain the extent of the disease, and, if the examination discloses that the person has tuberculosis, the physician shall report the facts to the proper medical officer of health who may proceed as provided by section 6.

Duty of  
physician  
in charge

(2) Where an examination has not been made under this section, every physician having medical charge of a correctional institution or training school shall report immediately to the medical officer of health the name and place of confinement of every person under his charge whom he suspects is suffering from tuberculosis.

Duplicate  
report

(3) A copy of every report under this section shall be sent by the physician making the report to the Minister and to the proper medical officer of health for the municipality in which the person formerly resided before admission to an institution mentioned in this section. R.S.O. 1970, c. 422, s. 47.

Examination  
of person  
under arrest  
or in  
custody

5. Where a medical officer of health believes that a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction or any such offence or contravention, has been or may be suffering from tuberculosis, he may cause the person to undergo the examination necessary to ascertain if the person is suffering from tuberculosis or to ascertain the extent of the disease, and may direct that the person be transferred to and detained in a sanatorium until the result of the examination is known. R.S.O. 1970, c. 422, s. 48.

Treatment

6. Where a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found

to have tuberculosis, the medical officer of health of the municipality where the person is in custody, or the Minister, may by order in writing direct that the person be transferred to a sanatorium and undergo treatment therein and that he be detained in custody in the sanatorium until the tuberculosis is no longer infectious or until he has received a degree of treatment considered adequate by the medical superintendent and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. R.S.O. 1970, c. 422, s. 49.

7. Any patient in a sanatorium who is unwilling or unable to conduct himself in such a manner as not to expose other patients or other persons to danger of infection or whose conduct is detrimental to the recovery of other patients may, upon the complaint of the superintendent or a legally qualified medical practitioner on the staff of the sanatorium who is designated by him, be apprehended by any peace officer and brought before a provincial judge who may, if he finds any such condition to exist, order that the patient be segregated from the other patients in a separate part of the sanatorium or any other place and there detained for a period of not more than six months. R.S.O. 1970, c. 422, s. 50.

Procedure  
for segregation of  
recalcitrant  
patients

8.—(1) The superintendent, every member of the medical staff and every nurse and attendant employed in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons and every medical officer of health and peace officer has authority to,

Authority  
to apprehend, etc.

- (a) execute any warrant and enforce any order of a provincial judge issued or made under section 3 or 7;
- (b) bring any person before a provincial judge under subsection 3 (10) or section 7; and
- (c) apprehend any person who has left a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous patients in contravention of any order made under section 3, 4, 5, 6 or 7.

(2) Where the Minister is of the opinion that a person detained under section 3 or 7 in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons is no longer suffering from pulmonary tuberculosis in an infectious state, he may direct the discharge of such person.

Discharge  
by Minister



Expenses of  
proceedings

(3) The expenses of all proceedings taken under section 3 or 7 shall be paid out of such moneys as are appropriated for the purposes of this Act by the Legislature. R.S.O. 1970, c. 422, s. 51.

## Offence

**9.** Any person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$500. R.S.O. 1970, c. 422, s. 55.

## CHAPTER 464

### School Boards and Teachers Collective Negotiations Act

#### PART I

#### GENERAL

#### 1. In this Act,

Interpre-  
tation

(*a*) "affiliate" means one of the following bodies:

1. L'Association des Enseignants Franco-Ontariens.
2. The Federation of Women Teachers' Associations of Ontario.
3. The Ontario English Catholic Teachers' Association.
4. The Ontario Public School Men Teachers' Federation.
5. The Ontario Secondary School Teachers' Federation;

(*b*) "agreement" means a written collective agreement made after the 18th day of July, 1975 and pursuant to this Act between a board and a branch affiliate or branch affiliates or between two or more boards and two or more branch affiliates covering matters negotiable under this Act;

(*c*) "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board and includes a divisional board of education;

(*d*) "branch affiliate" means an organization composed of all the teachers employed by a board who are members of the same affiliate;

- (e) "Commission" means the Education Relations Commission;
- (f) "Council" means the Ontario School Trustees' Council;
- (g) "Federation" means the Ontario Teachers' Federation;
- (h) "lock-out" means the suspension of employment of, or the refusal to assign work to, teachers other than principals and vice-principals in a school or schools by a board with the view to compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the branch affiliate that represents the teachers to enter into or renew an agreement;
- (i) "member association" means one of the following bodies:
  - 1. L'Association Française des Conseils Scolaires de l'Ontario.
  - 2. Northern Ontario Public and Secondary School Trustees' Association.
  - 3. Ontario Public School Trustees' Association.
  - 4. Ontario Separate School Trustees' Association;
- (j) "party" means a board or a branch affiliate;
- (k) "principal" means a principal as defined in the *Education Act*;
- (l) "strike" includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed to curtail, restrict, limit or interfere with the operation or functioning of a school program or school programs or of a school or schools including, without limiting the foregoing,
  - (i) withdrawal of services,
  - (ii) work to rule,
  - (iii) the giving of notice to terminate contracts of employment;

(m) "teacher" means a person,

- (i) who holds a valid certificate of qualification as a teacher in an elementary or secondary school in Ontario,
- (ii) who holds a letter of standing granted by the Minister under the *Education Act*,
- (iii) in respect of whom the Minister has granted a letter of permission under the *Education Act*,

R.S.O. 1980,  
c. 129

and who is employed by a board under a contract of employment as a teacher in the form of contract prescribed by the regulations under the *Education Act*, but does not include a supervisory officer as defined in the *Education Act*, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;

(n) "vice-principal" means a vice-principal within the meaning of the regulations under the *Education Act*;

(o) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed. 1975, c. 72, s. 1.

**2.** The purpose of this Act is the furthering of harmonious relations between boards and teachers by providing for the making and renewing of agreements and by providing for the relations between boards and teachers in respect of agreements. 1975, c. 72, s. 2.

Purpose  
of Act

**3.—(1)** This Act applies to all collective negotiations between boards and teachers in respect of any term or condition of employment put forward by either party for the purpose of making or renewing an agreement.

Application  
of Act

**(2)** No such collective negotiations shall be carried on between a board and the teachers employed by the board except in accordance with this Act. 1975, c. 72, s. 3.

Negotiations  
to be in  
accordance  
with Act

**4.—(1)** In negotiations and procedures under this Act to make or renew an agreement or agreements, two or more boards may act jointly as a party and two or more branch affiliates may act jointly as a party, where both the boards

Joint  
negotiations



and branch affiliates involved so agree, to make or renew an agreement between the boards and the branch affiliates or to make or renew a separate agreement between each of the boards and a branch affiliate that represents teachers employed by the board.

Idem

(2) A separate agreement between a board and a branch affiliate made pursuant to subsection (1) may include terms and conditions of employment in addition to and consistent with those terms and conditions which are part of the agreement between all the boards acting as a party and all the branch affiliates acting as a party.

Branch affiliates may negotiate as one party

(3) Notwithstanding subsection (1), two or more branch affiliates may act as one party in negotiations and procedures under this Act to make or renew an agreement or agreements with the same board.

Agreements between individual boards and branch affiliates

(4) Where two or more boards act jointly as a party and two or more branch affiliates act jointly as a party pursuant to subsection (1), any negotiations and proceedings and resulting agreement pursuant to subsection (2) between one of the boards and a branch affiliate shall be deemed to be part of the joint negotiations and agreement in accordance with subsection (1).

Continuation of agreement to act jointly

(5) A board or branch affiliate that agrees to act jointly with another board or branch affiliate pursuant to subsection (1), shall continue to act jointly with such other board or branch affiliate until an agreement is made or renewed between the parties. 1975, c. 72, s. 4.

Representation of teachers by branch affiliate

5. A branch affiliate shall, in negotiations and procedures under this Act, represent all the teachers composing its membership. 1975, c. 72, s. 5.

Negotiating group

6. In negotiations to make or renew an agreement, a party shall be represented by only one group of persons but may at any time increase, decrease or change the composition of the group. 1975, c. 72, s. 6.

Parties may obtain assistance

7. At any time during negotiations or procedures under this Act,

(a) a board that is a party may obtain assistance from the Council, a member association or another board;

- (b) a branch affiliate that is a party may obtain assistance from the Federation, an affiliate or another branch affiliate; and
- (c) a party may obtain assistance from one or more advisors, agents, counsel or solicitors. 1975, c. 72, s. 8.

## PART II

### NEGOTIATIONS

**8.** Negotiations shall be carried out in respect of any term or condition of employment put forward by either party. 1975, c. 72, s. 9. Subject-matter of negotiations

**9.** Where there is no agreement in force between a board and a branch affiliate, the branch affiliate may give to the board or the board may give to the branch affiliate written notice of its desire to negotiate with the view to making an agreement. 1975, c. 72, s. 10, *revised*. Notice of desire to negotiate

**10.—(1)** Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification, of the agreement then in operation. Notice of desire to negotiate for renewal of agreement

(2) Where an agreement exists between a board or boards and a branch affiliate or branch affiliates and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement. Where notice not given of desire to negotiate renewal of agreement

(3) Where notice has been given of desire to negotiate to make or renew an agreement, the terms and conditions of the agreement, other than a term or condition that prevents a strike, that was in force at the time of giving the notice shall not be altered until either, Working conditions may not be altered

- (a) an agreement or a new agreement comes into force or the agreement is renewed, as the case may be; or

- (b) subject to subsection 27 (2) and subsection 68 (5), sixty days have elapsed after the Commission has made public the report of the fact finder as provided in section 26,

whichever first occurs. 1975, c. 72, s. 11.

Obligation  
to negotiate

**11.** The parties shall meet within thirty days from the giving of the notice and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires. 1975, c. 72, s. 12 (1).

Parties  
may choose  
procedures  
to reach  
agreement

**12.**—(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;
- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them that may be provided for in an agreement to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V.

Effect of  
choice of  
procedure

(2) Where the parties refer all matters remaining in dispute between them to an arbitrator or a board of arbitration or to a selector pursuant to clause (1) (c), no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party. 1975, c. 72, s. 13.

Where  
Commission  
may assign  
person  
to assist  
parties

**13.** The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement. 1975, c. 72, s. 14.

## PART III

### FACT FINDING

Appointment  
of fact  
finder

**14.** The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration

as provided in Part IV or a selector as provided in Part V and,

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;
- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part. 1975, c. 72, s. 15, *revised*.

**15.** The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

Parties may proceed to make agreement or to arbitration or selection procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
  - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
  - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated. 1975, c. 72, s. 16.

**16.** No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party. 1975, c. 72, s. 17.

Persons prohibited as fact finder

**17.** Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*. 1975, c. 72, s. 18.

Vacancy



Notice of  
appointment  
of fact  
finder

**18.** Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties of the appointment of and the name and address of the fact finder. 1975, c. 72, s. 19.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**19.**—(1) Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where  
notice  
not given

(2) Where a party fails to comply with subsection (1), the fact finder may make a determination of the matters mentioned in subsection (1) and may then proceed pursuant to this Part. 1975, c. 72, s. 20.

Duty of  
fact finder

**20.**—(1) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report  
may contain

(2) A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties. 1975, c. 72, s. 21.

Matters that  
may be  
considered  
by fact  
finder

**21.** In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing,

- (a) the conditions of employment in occupations outside the public teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the board of the proposal of either party;
- (d) the interests and welfare of the public. 1975, c. 72, s. 22.

Procedure  
of fact  
finder

**22.** The fact finder shall determine his own procedure under guidelines established by the Commission and, where

the fact finder requests information from a party, the party shall provide the fact finder with full and complete information. 1975, c. 72, s. 23.

**23.** The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission, with the agreement of the parties, may direct and the Commission shall forthwith give a copy of the report to each of the parties. 1975, c. 72, s. 24.

Submission  
of report of  
fact finder

**24.** The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be. 1975, c. 72, s. 25.

Report not  
binding

**25.—**(1) Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

Assignment  
of  
assistance

(2) Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement. 1975, c. 72, s. 26.

Idem

**26.—**(1) If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Where report  
confidential

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection (1), the Commission shall make public the report of the fact finder.

Release  
of report

(3) Notwithstanding subsections (1) and (2), where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days. 1975, c. 72, s. 27.

Deferral  
of  
release

**27.—**(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Com-

Parties  
may agree  
to refer  
matters in  
dispute

mission has given a copy of the report of the fact finder to each of the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

(a) an arbitrator or a board of arbitration for determination as provided in Part IV; or

(b) a selector for determination as provided in Part V.

Effect of  
choice of  
procedure

(2) Where, pursuant to subsection (1), the parties refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration or refer all such matters to a selector and either of the parties submits its final offer to the selector,

(a) the terms of the agreement, if any, in force between the parties at the time of the giving of notice of desire to negotiate pursuant to subsection 10 (1) or (2), shall not be altered until an agreement is made or renewed between the parties; and

(b) no teacher who is a member of a branch affiliate that is a party shall engage in a strike against the board that is a party and the board shall not lock out or declare a state of lock-out to exist against members of the branch affiliate that is a party.  
1975, c. 72, s. 28, *revised*.

## PART IV

### VOLUNTARY BINDING ARBITRATION

Parties  
to give  
notice to  
Commission  
where  
arbitration  
agreed  
upon

**28.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

(a) that the parties agree to refer the matters to an arbitrator and,

(i) the date of appointment and the name and address of the arbitrator, or

(ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

- (i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or
- (ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board,

and the notice shall state that the decision of the arbitrator or board of arbitration will be accepted by the parties as binding upon them.

(2) Except as provided in section 56, a party shall not withdraw from arbitration proceedings under this Part after notice is given to the Commission in accordance with subsection (1). Parties not to withdraw

(3) Where the parties, in the notice mentioned in subsection (1), request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments. Where appointments made by Commission

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment. Appointment of chairman by members

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection (4), the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out Where Commission to appoint chairman



the name and address of the person appointed and the date of the appointment. 1975, c. 72, s. 29.

Persons  
prohibited as  
arbitrator  
or members  
or chairman  
of board of  
arbitration

**29.** No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party. 1975, c. 72, s. 30.

Vacancy

**30.**—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection (2) or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the body that appointed the member, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Where  
chairman  
unable to  
act

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall within seven days of the giving of the notice appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where  
arbitrator  
unable to  
act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*. 1975, c. 72, s. 31.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**31.** Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration,

as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. 1975, c. 72, s. 32.

**32.**—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions. Procedure

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. Idem

(3) The decision of a majority of a board of arbitration is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board. 1975, c. 72, s. 33. Decision

**33.**—(1) The arbitrator or board of arbitration has power, Powers of arbitrator or board of arbitration

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(2) Where any person without lawful excuse,

Stated case for contempt for failure to attend. etc.

(a) on being duly summoned under subsection (1) as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be,

refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

- (c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1975, c. 72, s. 34.

Duty of  
arbitrator  
or board of  
arbitration

**34.**—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Matters  
that may be  
considered  
by arbitrator  
or board of  
arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties. 1975, c. 72, s. 35.

Time for  
report of  
arbitrator  
or board of  
arbitration

**35.**—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of  
decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision. 1975, c. 72, s. 36.

**36.**—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Preparation  
and  
execution of  
document by  
parties

(2) If the parties fail to execute the document within the period of time mentioned in subsection (1), the arbitrator or board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Where  
arbitrator  
or board of  
arbitration  
to prepare  
document

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. 1975, c. 72, s. 37.

Failure  
to execute  
document

## PART V

### FINAL OFFER SELECTION

**37.**—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and,

Parties  
to give  
notice to  
Commission  
where  
selection  
agreed  
upon

(a) the date of appointment and the name and address of the selector; or

(b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together with the notice mentioned in subsection (1), give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them.

Statement  
by parties

(3) Except as provided in section 56, where the parties give to the Commission a written statement in accordance with subsection (2), a party shall not withdraw from the proceedings

Parties not  
to withdraw



after the final offer of either of the parties has been submitted to the selector.

Where  
Commission  
appoints  
selector

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. 1975, c. 72, s. 38.

Persons  
prohibited  
as selector

**38.** No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties, but no person shall be deemed to have a direct pecuniary interest by reason only of being a ratepayer within the area of jurisdiction of the board that is a party. 1975, c. 72, s. 39.

Selector  
unable to  
act

**39.** Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall within seven days of the giving of the notice appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*. 1975, c. 72, s. 40.

Notice of  
matters  
agreed  
upon and  
matters in  
dispute

**40.** Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. 1975, c. 72, s. 41.

Notice of  
final offer

**41.** Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice. 1975, c. 72, s. 42.

Final offer  
of opposite  
party

**42.** Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining

in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party. 1975, c. 72, s. 43.

**43.** Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party. 1975, c. 72, s. 44.

**44.** Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings. 1975, c. 72, s. 45.

**45.** The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and the selector, upon receipt of the notice, shall not hold a hearing but shall proceed to his decision. 1975, c. 72, s. 46.

**46.—(1)** The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions.

(2) The selector has power,

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(3) Where any person without lawful excuse,

(a) on being duly summoned under subsection (2) as a witness before the selector makes default in so attending;

(b) being in attendance as a witness before the selector, refuses to take an oath or to make an affirmation

Written  
response

Hearing

Parties may  
dispense  
with hearing

Procedure

Powers of  
selector

Stated case  
for contempt  
for failure  
to attend,  
etc.

legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or

- (c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1975, c. 72, s. 47.

Selection  
of final  
offer

**47.** The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties. 1975, c. 72, s. 48.

Effect of  
decision

**48.** The decision of the selector is binding upon the parties and they shall comply in good faith with the decision. 1975, c. 72, s. 49.

Preparation  
and execu-  
tion of  
document  
by parties

**49.—(1)** Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Where  
selector  
to prepare  
document

**(2)** If the parties fail to execute the document within the period of time mentioned in subsection (1), the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure  
to execute  
document

**(3)** If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. 1975, c. 72, s. 50.

## PART VI

### AGREEMENTS

**50.** Every agreement shall,

Term of  
agreement

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate. 1975, c. 72, s. 51 (1).

**51.—**(1) Where a conflict appears between a provision of an agreement and a provision of an Act or regulation, the provision of the Act or regulation prevails. Conflict

(2) The provisions of this Act shall not be construed as to prejudicially affect the rights and privileges with respect to the employment of teachers enjoyed by Roman Catholic and Protestant separate school boards under *The British North America Act, 1867*. 1975, c. 72, s. 52. Application  
of  
B.N.A. Act

**52.—**(1) Unless an agreement otherwise provides for the final and binding settlement of all differences between the parties arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision: Resolution  
of matters  
arising  
out of  
agreement

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party either that it accepts the other party's appointee as a single arbitrator or inform the other party of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the



two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either party. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

Enforcement  
of  
arbitration  
decision

(2) Where a party or a teacher fails to comply with any of the terms of a decision of an arbitrator or arbitration board, any party or any teacher affected by the decision may file in the office of the Registrar of the Supreme Court a copy of the decision of the arbitrator or arbitration board, exclusive of the reasons therefor and certified by the arbitrator or the chairman of the arbitration board to be a true copy of the decision, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1975, c. 72, s. 53.

Provision  
against  
strikes, etc.

**53.**—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Statutory  
provision

(2) If an agreement does not contain the provision mentioned in subsection (1), the agreement shall be deemed to contain the following provision:

“There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement”. 1975, c. 72, s. 54 (1, 2).

Agreement  
to form  
part of  
contract of  
employment

**54.**—(1) An agreement between a board and a branch affiliate shall be deemed to form part of the contract of employment between the board and each teacher who is a member of the branch affiliate.

Conflict

(2) Where a conflict appears between a provision of any other part of a contract of employment and a provision of the agreement referred to in subsection (1), the provision of the agreement prevails, but no agreement shall conflict with the form of contract prescribed by the regulations under the *Education Act*. 1975, c. 72, s. 55.

**55.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, the chief executive officer of the board or of each of the boards, as the case may be, that is a party shall forthwith give notice thereof to the Commission. 1975, c. 72, s. 56.

Notice of  
agreement

**56.** Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement. 1975, c. 72, s. 57.

Where  
agreement  
reached

**57.** Upon the execution of an agreement, each party to the agreement shall forthwith give notice thereof, together with a copy of the agreement, to the Commission. 1975, c. 72, s. 58.

Notice to  
Commission  
of execution  
of agreement

**58.** An agreement is binding upon the board and upon the branch affiliate that is a party to it and upon the teachers employed by the board who are members of the branch affiliate. 1975, c. 72, s. 59.

Binding  
effect of  
agreement

## PART VII

### EDUCATION RELATIONS COMMISSION

**59.—(1)** There shall be a commission to be known as the Education Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Commission  
established

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Chairman  
and vice-  
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman and in the absence of the chairman and vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

Acting  
chairman

(4) The members of the Commission shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.

Term of  
office

- Vacancy**            (5) Every vacancy on the Commission caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.
- Reappointment**    (6) Each of the members of the Commission is eligible for reappointment upon the expiration of his term of office.
- Quorum**            (7) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission.
- Exercising powers**    (8) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.
- Remuneration**        (9) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Officers, staff, etc.**    (10) Subject to the approval of the Lieutenant Governor in Council, the Commission may,
- (a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and
  - (b) appoint and pay such employees as are considered proper.
- R.S.O. 1980, c. 419, applicable**    (11) The *Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 28 of that Act.
- Professional and other assistance**    (12) The Commission may engage persons other than those employed pursuant to subsection (10) to provide professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons. 1975, c. 72, s. 60.
- Duties of Commission**    **60.—**(1) It is the duty of the Commission,
- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;

- (b) to maintain an awareness of negotiations between teachers and boards;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of teachers;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a school or schools will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of the school or schools.

(2) The Commission may request a board to provide information necessary to compile the statistical information referred to in subsection (1) and a board shall comply with such a request within a reasonable period of time. Provision of information

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature. 1975, c. 72, s. 61. Annual report

**61.** No member of the Commission shall be required to give testimony in any proceeding under this Act with regard to information obtained by him in the discharge of his duties as a member of the Commission. 1975, c. 72, s. 62. Testimony by member of Commission

**62.** The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 72, s. 63, *revised*. Moneys



## PART VIII

## STRIKES AND LOCK-OUTS

**63.** No teacher shall take part in a strike against the board that employs the teacher unless,

- (a) there is no agreement in operation that is deemed under this Act to form part of the contract of employment between the board and the teacher;
- (b) notice of desire to negotiate to make or renew an agreement has been given by either party;
- (c) all the matters remaining in dispute between the board and the branch affiliate that represents the teacher have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;
- (d) the offer of the board in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the branch affiliate that represents the teacher is submitted to and rejected by the teachers composing the branch affiliate by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the teachers composing the branch affiliate that represents the teacher have voted, not earlier than the vote referred to in clause (d) and not before the end of the fifteen-day period referred to in clause (c), in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and
- (f) after a vote in favour of a strike in accordance with clause (e), the branch affiliate that represents the teacher gives to the board written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike. 1975, c. 72, s. 64 (1).

Principals  
and vice-  
principals

**64.**—(1) A principal and a vice-principal shall be members of a branch affiliate.

(2) Notwithstanding subsection (1), in the event of a strike by the members of a branch affiliate each principal and vice-principal who is a member of the branch affiliate shall remain on duty during the strike or any related lock-out or state of lock-out or closing of a school or schools. 1975, c. 72, s. 65.

*Idem,*  
membership  
in branch  
affiliate

**65—**(1) The Federation shall not and no affiliate or branch affiliate shall call or authorize or threaten to call or authorize an unlawful strike.

Unlawful  
strike

(2) No officer, official or agent of the Federation, an affiliate or a branch affiliate or member of a branch affiliate shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike. 1975, c. 72, s. 66.

*Idem*

**66—**(1) The Council shall not and no member association or board shall call or authorize or threaten to call or authorize an unlawful lock-out.

Unlawful  
lock-out

(2) No officer, official or agent of the Council, a member association or a board or member of a board shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out. 1975, c. 72, s. 67.

*Idem*

**67—**(1) Where the Federation, an affiliate or a branch affiliate calls or authorizes a strike or teachers take part in a strike against a board that the board, a member association, the Council or any person normally resident within the jurisdiction of the board alleges is unlawful, the board, member association, Council or person may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
strike

(2) Where the Council, a member association or a board calls or authorizes a lock-out of members of a branch affiliate that the branch affiliate, an affiliate, the Federation or any person normally resident within the jurisdiction of the board alleges is unlawful, the branch affiliate, affiliate, Federation or person may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

Declaration  
of unlawful  
lock-out

(3) Where the Ontario Labour Relations Board makes a declaration under subsection (1) or (2), the Board in its discretion may, in addition, direct what action, if any, a person, teacher, branch affiliate, affiliate, the Federation, a board, member association or the Council and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out.

Direction  
by  
O.L.R.B.

Enforcement  
of direction  
by S.C.O.

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (3), exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such. 1975, c. 72, s. 68.

Lock-out

**68.**—(1) Where a lawful strike takes place against a board, the board may lock out or declare a state of lock-out to exist against all members, other than principals or vice-principals, of the branch affiliate that represents teachers engaged in the strike.

Idem

(2) No board shall lock out or declare a state of lock-out to exist or close a school or schools unless and until the proposal of the branch affiliate in respect of all matters agreed upon by the parties and in respect of all matters remaining in dispute between the parties last received by the board has been presented to a meeting of the board in public session.

Idem

(3) Except as provided in subsection (1), a board shall not lock out a teacher.

Closing  
of school

(4) Where a lawful strike takes place against a board, the board may close a school or schools where the board is of the opinion that,

- (a) the safety of students may be endangered;
- (b) the school building or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the school.

Payment  
of teachers

(5) A teacher shall not be paid his salary in respect of the days on which,

- (a) he takes part in a strike, other than a strike as defined in subclause 1 (l) (ii);
- (b) he is locked out; or
- (c) the school in which he is employed is closed pursuant to subsection (4).

Resumption  
of strike  
or new strike

(6) Where a lawful strike is terminated without an agreement coming into effect, no teacher shall take part in

a resumption of the strike or take part in a new strike except after the provisions of clauses 63 (1) (d), (e) and (f) have again been complied with in respect of such resumption or new strike.

(7) The provisions of this section apply notwithstanding any provision of the *Education Act*. 1975, c. 72, s. 69.

Application  
of section  
R.S.O. 1980,  
c. 129

**69.** The contract of employment or position of a teacher shall not be terminated by reason of his participation in a lawful strike. 1975, c. 72, s. 70.

Participa-  
tion in  
lawful  
strike

**70.** Nothing in this Act precludes a teacher,

Resignation,  
etc.,  
by teacher

(a) from terminating his employment with a board in good faith in accordance with the provisions of his contract of employment;

(b) from withdrawing a voluntary service in good faith on an individual basis. 1975, c. 72, s. 71.

## PART IX

### MISCELLANEOUS

**71.** Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission. 1975, c. 72, s. 72.

Copies of  
notice to be  
given to  
Commission

**72.** Except in respect of section 51, no decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them. 1975, c. 72, s. 73.

Decisions,  
etc., of  
Commission  
and others  
not subject  
to review

**73.** Any notice or document required or authorized by this Act to be given shall,

Service of  
notice

(a) where it is to be given to the Commission, be delivered to the office of the Commission;



- (b) where it is to be given to a board, be delivered to the office of the board;
- (c) where it is to be given to a branch affiliate, be delivered to an officer of the branch affiliate;
- (d) where it is to be given to an affiliate, the Council, the Federation or a member association, be delivered to the office of the affiliate, the Council, the Federation or the member association, as the case requires;
- (e) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (f) where it is to be given to a board of arbitration, be delivered to the chairman or either of the other two members of the board of arbitration. 1975, c. 72, s. 74.

**Costs**

**74—**(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties.

**Idem**

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission. 1975, c. 72, s. 75.

**Statement as to officers of branch affiliate**

**75.** Where the Commission so directs, a branch affiliate shall file with the Commission, within the time prescribed in the direction, a statement signed by its president or secretary setting out the names and addresses of its officers. 1975, c. 72, s. 76.

**Where vote by secret ballot required**

**76.—**(1) Subject to subsection (2), a vote conducted by a branch affiliate to give approval to the terms of an agreement shall be a vote by secret ballot.

**Idem**

(2) A vote conducted by a branch affiliate for the purposes of subsection 63 (1) or for the purpose of giving approval to the terms of an agreement after the commencement of a strike

shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission. 1975, c. 72, s. 77.

**77—(1)** Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contravention by teacher or trustee

(2) The Council and every member association and every board and the Federation and every affiliate and every branch affiliate that contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

Contravention by Council or Federation

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed, for the purposes of this section, to be a contravention of this Act.

Contravention of decision, etc.

(4) Where the Council or a member association or the Federation or an affiliate or a branch affiliate is guilty of an offence under this Act, every officer or representative thereof, and where a board is guilty of an offence under this Act every member of the board, who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection (1) as if he had been convicted of an offence under subsection (1).

Where officers also guilty of offence

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Information

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard.

Consent to prosecution

(7) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice

Practice and procedure of O.L.R.B.

and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

Decision  
of  
O.L.R.B.

(8) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs. 1975, c. 72, s. 78.

Style of  
prosecution

**78.** A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate. 1975, c. 72, s. 79.

Vicarious  
responsi-  
bility

**79.** Any act or thing done or omitted by an officer, official or agent of the Federation, an affiliate, a branch affiliate, the Council, a member association or a board or by a member of a board within the apparent scope of his authority to act on behalf of the Federation, affiliate, branch affiliate, Council, member association or board shall be deemed to be an act or thing done or omitted by the Federation, affiliate, branch affiliate, Council, member association or board, as the case may be. 1975, c. 72, s. 80.

R.S.O. 1980,  
c. 25 not  
to apply

**80.** The *Arbitrations Act* does not apply to proceedings under this Act.

Idem  
R.S.O. 1980,  
c. 484

(2) The *Statutory Powers Procedure Act* does not apply to proceedings under this Act other than in respect of a determination referred to in clause 60 (1) (f).

Idem

(3) Notwithstanding subsection (2), but subject to section 72, the *Statutory Powers Procedure Act* applies to proceedings before the Ontario Labour Relations Board under this Act. 1975, c. 72, s. 81.

Compella-  
bility of  
witnesses

**81.** Notwithstanding any other provision of this Act,

- (a) the Minister of Education;
- (b) the Deputy Minister of Education;
- (c) the chairman, a vice-chairman or a member of the Ontario Labour Relations Board;
- (d) an arbitrator or member or chairman of a board of arbitration; or

(e) a selector,

is not a compellable witness in any proceeding under this Act.  
1975, c. 72, s. 82.





## CHAPTER 465

## School Trust Conveyances Act

**1.** Where persons, residing in Ontario, interested in any school established in any city, town, village or township therein whether as parents of children frequenting such schools or as contributors to the same, or both, have occasion or are desirous to take a conveyance of real property for the use of such schools, such persons may elect from among themselves, and appoint not fewer than five and not more than seven trustees, to whom and to whose successors, to be appointed in the manner specified in the deed of conveyance, the real property requisite for the school may be conveyed. R.S.O. 1970, c. 423, s. 1.

Conveyance  
of property  
for school  
sites to  
trustees

**2.**—(1) The trustees so appointed and their successors in perpetual succession, by the name expressed in the deed, may take, hold and possess the real property so conveyed, and bring and maintain any action for the protection thereof, and of their right thereto, but there shall not be so held in trust more than ten acres of land at any time for any one school.

Powers of  
trustees to  
hold

(2) This section does not extend to public schools. R.S.O. 1970, c. 423, s. 2.

Application  
of section

**3.** The trustees shall, within twelve months after the execution of any such deed, cause the deed to be registered in the land registry office of the registry division in which the land lies. R.S.O. 1970, c. 423, s. 3.

Registra-  
tion of deed



## CHAPTER 466

## Securities Act

## INTERPRETATION

## 1.—(1) In this Act,

Interpre-  
tation

1. “adviser” means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities;
2. “associate”, where used to indicate a relationship with any person or company means,
  - i. any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
  - ii. any partner of that person or company,
  - iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
  - iv. any relative of such person, including his spouse, or of his spouse who has the same home as such person;
3. “Commission” means the Ontario Securities Commission;
4. “company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization;
5. “contract” includes a trust agreement, declaration of trust or other similar instrument;



6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;
7. "dealer" means a person or company who trades in securities in the capacity of principal or agent;
8. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;
9. "Director" means the Director or any Deputy Director of the Commission;
10. "director", where used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;
11. "distribution", where used in relation to trading in securities, means,
  - i. a trade in securities of an issuer that have not been previously issued,
  - ii. a trade by or on behalf of an issuer in previously issued securities of that issuer that have been redeemed or purchased by or donated to that issuer,
  - iii. a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any person, company or combination of persons or companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,

iv. a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, prior to the 15th day of September, 1979 if those securities continued on that date to be owned by or for that underwriter, so acting,

v. a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, within eighteen months after the 15th day of September, 1979, if the trade took place during that eighteen months,

and on and after the 15th day of March, 1981, includes a distribution as referred to in subsections 71 (4), (5), (6) and (7), and also includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution and "distribute", "distributed" and "distributing" have a corresponding meaning;

12. "distribution company" means a person or company distributing securities under a distribution contract;
13. "distribution contract" means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;
14. "distribution to the public", where used in relation to trading in securities, means a distribution that is made for the purpose of distributing to the public securities issued by an issuer, whether such trades are made directly or indirectly to the public through an underwriter or otherwise;
15. "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;
16. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as

trustee, executor, administrator or other legal personal representative;

17. "insider" or "insider of a reporting issuer" means,
  - i. every director or senior officer of a reporting issuer,
  - ii. every director or senior officer of a company that is itself an insider or subsidiary of a reporting issuer,
  - iii. any person or company who beneficially owns, directly or indirectly, voting securities of a reporting issuer or who exercises control or direction over voting securities of a reporting issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the reporting issuer for the time being outstanding other than voting securities held by the person or company as underwriter in the course of a distribution, and
  - iv. a reporting issuer where it has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities;
18. "issuer" means a person or company who has outstanding, issues or proposes to issue, a security;
19. "management company" means a person or company who provides investment advice, under a management contract;
20. "management contract" means a contract under which a mutual fund is provided with investment advice, alone or together with administrative or management services, for valuable consideration;
21. "material change" where used in relation to the affairs of an issuer means a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer and includes a decision to implement such a change made by the board of directors of the issuer or by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable;
22. "material fact" where used in relation to securities issued or proposed to be issued means a fact that

significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of such securities;

23. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
24. "misrepresentation" means,
  - i. an untrue statement of material fact, or
  - ii. an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made;
25. "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the securities;
26. "mutual fund in Ontario" means a mutual fund that is a reporting issuer or that is organized under the laws of Ontario, but does not include a private mutual fund;
27. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;
28. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;
29. "portfolio manager" means an adviser registered for the purpose of managing the investment portfolio of clients through discretionary authority granted by the clients;
30. "portfolio securities", where used in relation to a mutual fund, means securities held or proposed to be purchased by the mutual fund;



31. "private company" means a company in whose constating document,

- i. the right to transfer its shares is restricted,
- ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and
- iii. any invitation to the public to subscribe for its securities is prohibited;

32. "private mutual fund" means a mutual fund that is,

- i. operated as an investment club, where,
  - (a) its shares or units are held by not more than fifty persons and its indebtedness has never been offered to the public;
  - (b) it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees; and
  - (c) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations, or
- ii. administered by a trust company registered under the *Loan and Trust Corporations Act* and consists of,
  - (a) a pooled fund maintained solely to serve registered retirement savings plans, registered home ownership savings plans, or other savings plans registered under the *Income Tax Act* (Canada);
  - (b) a common trust fund as defined by subsection 111 (1) of the *Loan and Trust Corporations Act*; or

R.S.O. 1980,  
c. 249

R.S.C. 1952,  
c. 148

- (c) a pooled fund maintained by a trust company in which moneys belonging to various estates and trusts in its care are commingled, with the authority of the settlor, testator or trustee thereof, for the purpose of facilitating investment where no general solicitations are made with a view to the sale of participations in the pooled fund;

33. "promoter" means,

- i. a person or company who, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or
- ii. a person or company who, in connection with the founding, organizing or substantial re-organizing of the business of an issuer, directly or indirectly, receives in consideration of services or property, or both services and property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially re-organizing the business;

34. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;

35. "register" means register under this Act, and "registered" has a corresponding meaning;

36. "registrant" means a person or company registered or required to be registered under this Act;

37. "regulations" means the regulations made under this Act;

38. "reporting issuer" means an issuer,

- i. that has issued voting securities on or after the 1st day of May, 1967 in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
- ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,
- iii. any of whose securities have been at any time since the 15th day of September, 1979 listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,

R.S.O. 1980,  
c. 54

- iv. to which the *Business Corporations Act* applies and which, for the purposes of that Act, is offering its securities to the public, or
- v. that is the company whose existence continues following the exchange of securities of a company by or for the account of such company with another company or the holders of the securities of that other company in connection with,

(a) a statutory amalgamation or arrangement; or

(b) a statutory procedure under which one company takes title to the assets of the other company that in turn loses its existence by operation of law, or under which the existing companies merge into a new company,

where one of the amalgamating or merged companies or the continuing company has been a reporting issuer for at least twelve months;

39. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of the dealer;

## 40. "security" includes,

- i. any document, instrument or writing commonly known as a security,
- ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
- iii. any document constituting evidence of an interest in an association of legatees or heirs,
- iv. any document constituting evidence of an option, subscription or other interest in or to a security,
- v. any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, preorganization certificate or subscription other than a contract of insurance issued by an insurance company licensed under the *Insurance Act* and an evidence of deposit issued by a bank to which the *Bank Act* (Canada) applies or by a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
- vi. any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets, except a contract issued by an insurance company licensed under the *Insurance Act* which provides for payment at maturity of an amount not less than three quarters of the premiums paid by the purchaser for a benefit payable at maturity,
- vii. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
- viii. any certificate of share or interest in a trust, estate or association,
- ix. any profit-sharing agreement or certificate,
- x. any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,

R.S.O. 1980,  
cc. 218, 249  
1980-81,  
c. 40 (Can.)



- xi. any oil or natural gas royalties or leases or fractional or other interest therein,
- xii. any collateral trust certificate,
- xiii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of the *Investment Contracts Act*,
- xiv. any investment contract, other than an investment contract within the meaning of the *Investment Contracts Act*,
- xv. any document constituting evidence of an interest in a scholarship or educational plan or trust, and
- xvi. any commodity futures contract or any commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the *Commodity Futures Act* or the form of which is not accepted by the Director under that Act,

R.S.O. 1980,  
c. 221

R.S.O. 1980,  
c. 78

whether any of the foregoing relate to an issuer or proposed issuer;

41. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i;

42. "trade" or "trading" includes,

- i. any sale or disposition of a security for valuable consideration, whether the terms of

payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in subparagraph iv, a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a *bona fide* debt,

- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
  - iii. any receipt by a registrant of an order to buy or sell a security,
  - iv. any transfer, pledge or encumbering of securities of an issuer from the holdings of any person or company or combination of persons or companies described in subparagraph iii of paragraph 11 for the purpose of giving collateral for a *bona fide* debt, and
  - v. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;
43. "underwriter" means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include,
- i. a person or company whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,
  - ii. a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,
  - iii. a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or
  - iv. a bank to which the *Bank Act* (Canada) applies with respect to the securities described in paragraph 1 of subsection 34 (2) and to such banking transactions as are designated by the regulations;
44. "voting security" means any security other than a debt security of an issuer carrying a voting right

1980-81,  
c. 40 (Can.)

either under all circumstances or under some circumstances that have occurred and are continuing. 1978, c. 47, s. 1 (1); 1979, c. 86, s. 1.

Affiliated  
companies

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

Controlled  
companies

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company or by or for the benefit of the other companies; and
- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

Subsidiary  
companies

(4) A company shall be deemed to be a subsidiary of another company if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more companies each of which is controlled by that other, or
  - (iii) two or more companies each of which is controlled by that other; or
- (b) it is a subsidiary of a company that is that other's subsidiary.

Beneficial  
ownership  
of securities

(5) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

Idem

(6) A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

Insider  
of mutual  
fund

(7) Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company or distribution company shall be deemed to be an insider of the mutual fund.

Issuer as  
insider of  
reporting  
issuer

(8) Where an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer shall be deemed

to have been an insider of the reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the issuer.

(9) Where a reporting issuer becomes an insider of any other reporting issuer, every director or senior officer of the second-mentioned reporting issuer shall be deemed to have been an insider of the first-mentioned reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the second-mentioned reporting issuer. 1978, c. 47, s. 1 (2-9).

Reporting  
issuer as  
insider of  
other  
reporting  
issuer

## PART I

### THE COMMISSION

**2.—**(1) The Commission is continued and is responsible for the administration of this Act.

Commission

(2) The Commission shall be composed of a Chairman and not more than eight other members, appointed by the Lieutenant Governor in Council, one of whom shall be designated as Vice-Chairman.

Appointment

(3) Two members of the Commission constitute a quorum. 1978, c. 47, s. 2.

Quorum

(4) The Commission may hold hearings in or outside Ontario in conjunction with any other body empowered by statute to administer or regulate trading in securities and may consult with that other body during the course of a hearing. 1979, c. 86, s. 2.

Hearings in  
conjunction  
with other  
securities  
commissions

**3.—**(1) The Chairman shall be the chief executive officer of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

Chairman  
and members

(2) The Chairman, Vice-Chairman or any member of the Commission may exercise the powers and shall perform such duties vested in or imposed upon the Commission by this Act or the regulations as are assigned to him by the Commission.

Delegation  
of powers

(3) Where the person who exercises the powers and performs the duties vested in the Commission by sections 11 to 17 pursuant to an assignment under subsection (2), receives the report of an investigation ordered under section 11 and on the basis of such report issues an *ex parte* order or a direction that proceedings be instituted by the Commission under section 26, 69, 123 or 124 such person shall not sit on the hearing required to be held by the Commission except

Eligibility  
to sit on  
hearing



with the written consent of the party directly affected by the proceedings.

Review

(4) Every decision made pursuant to an assignment under subsection (2) is subject to review by the Commission under section 8 in the same manner as if it had been made by the Director, and the person who made the decision shall not sit on the hearing and review thereof by the Commission. 1978, c. 47, s. 3.

## PART II

### FINANCIAL DISCLOSURE ADVISORY BOARD

Financial  
Disclosure  
Advisory  
Board

4.—(1) The Financial Disclosure Advisory Board established under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is continued and shall be composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman.

Meetings

(2) The Financial Disclosure Advisory Board shall meet at the call of the Commission.

Duties

(3) The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

Remuner-  
ation

(4) The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. 1978, c. 47, s. 4.

## PART III

### APPOINTMENT OF EXPERTS

Appointment  
of experts

5.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submissions  
to experts

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and

things as is vested in the Commission, and subsections 11 (3) and (4) apply with necessary modifications.

(3) An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. 1978, c. 47, s. 5. Payment  
of experts

## PART IV

### THE DIRECTOR

6. The Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 8 and sections 11 to 17 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. 1978, c. 47, s. 6. Director

7. Where,

Refunds

(a) an application for registration or renewal of registration is abandoned; or

(b) a preliminary prospectus or prospectus is withdrawn,

the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. 1978, c. 47, s. 7.

## PART V

### ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

8.—(1) The Director shall forthwith notify the Commission of every decision refusing registration under section 25 or refusing to issue a receipt for a prospectus under section 60 and the Commission may within thirty days of the decision notify the Director and any person or company directly Notification  
of decision

affected of its intention to convene a hearing to review the decision.

Review  
of Director's  
decisions

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on  
review

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

Stay

(4) Notwithstanding that a person or company requests a hearing and review under subsection (2) of this section or subsection 3 (4), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1978, c. 47, s. 8.

Appeal

**9.**—(1) Any person or company directly affected by a decision of the Commission, other than a decision under section 73, may appeal to the Divisional Court.

Stay

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

Certification  
of documents

(3) The Secretary shall certify to the Registrar of the Supreme Court,

(a) the decision that has been reviewed by the Commission;

(b) the decision of the Commission, together with any statement of reasons therefor;

(c) the record of the proceedings before the Commission; and

(d) all written submissions to the Commission or other material that is relevant to the appeal.

Minister  
entitled to  
appear

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly. <sup>Powers of court on appeal</sup>

(6) Notwithstanding an order of the court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1978, c. 47, s. 9. <sup>Further decisions</sup>

**10.**—(1) There shall be a Secretary to the Commission who may, <sup>Secretary</sup>

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
- (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 9 (3); and
- (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

(2) Where the Secretary is absent for any reason, the Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations. <sup>Acting Secretary</sup>

(3) A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 47, s. 10. <sup>Certification by Secretary</sup>



## PART VI

## INVESTIGATIONS

Investigation  
order

**11.**—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,  
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investigation  
order

(2) The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

Scope of  
investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

(a) the affairs of the person or company in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions

promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of the *Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section.

Powers to  
summon  
witnesses and  
require  
production

R.S.O. 1980,  
c. 145

(5) A person giving evidence at an investigation under this section may be represented by counsel.

Counsel

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

Seizure  
of property

(7) Where any documents, records, securities or other property are seized under subsection (6), the documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or company to the person appointed to make the investigation.

Inspection  
of seized  
documents

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

Accountants  
and experts

(9) Every person appointed under subsection (1), (2) or (8) shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. 1978, c. 47, s. 11.

Report of  
investigation

Report to  
Minister

**12.** Where upon the report of an investigation made under section 11 it appears to the Commission that any person or company may have,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,  
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. 1978, c. 47, s. 12.

Investigation  
by order of  
Minister

**13.** Notwithstanding section 11, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 11. 1978, c. 47, s. 13.

Evidence not  
to be disclosed

**14.** No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 11 or 13. 1978, c. 47, s. 14.

Report to  
Minister

**15.** Where an investigation has been made under section 11, the Commission may, and, where an investigation has been made under section 13, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. 1978, c. 47, s. 15.

Order to  
freeze  
property

**16.—(1)** The Commission may,

(a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;

(b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease;

- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b), (c) or (d) to hold such funds or securities or direct the person or company referred to in clause (a), (b), (c) or (d) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, the *Winding-up Act* (Canada) or section 17 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

R.S.C. 1970,  
cc. B-3, W-10  
R.S.O. 1980,  
cc. 223, 95, 54

(2) Any person or company named in a direction issued under subsection (1) may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification.

Application  
for  
directions

(3) Upon the application of a person or company directly affected by a direction issued under subsection (1), the Commission may make an order on such terms and conditions it may impose revoking the direction or consenting to the release of any fund or security.

Revocation  
or  
amendment  
of direction

(4) In any of the circumstances mentioned in clause (1) (a), (b), (c) or (d), the Commission may in writing or by telegram notify any

Notice to  
land registry  
offices



land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. 1978, c. 47, s. 16.

Appointment  
of receiver,  
etc.

17.—(1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities;
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company; or
- (e) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for the person or company,

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

Appointment

(2) Upon an application under subsection (1), the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of the person or company or

of persons or companies any of whose property is in the possession or under the control of the person or company, or, in a proper case, of the security holders of or subscribers to the person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days. *Ex parte application*

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. *Powers of receiver, etc.*

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice. *Enforcement of order*

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. 1978, c. 47, s. 17. *Rules of practice*

## PART VII

### AUDITS

**18.—**(1) Notwithstanding anything in sections 19, 20 and 21, the Commission may in writing appoint any person to examine at any time, *Audits by Commission*

- (a) the financial affairs of a registrant or a reporting issuer; and
- (b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund,

and prepare such financial or other statements and reports that may be required by the Commission.

Access to  
records

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

Fees

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. 1978, c. 47, s. 18.

## PART VIII

### SELF-REGULATION—GENERALLY

Panel of  
auditors

**19.** Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario, shall,

- (a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than ten years. 1978, c. 47, s. 19.

Audits by  
stock  
exchange and  
associations

**20.—(1)** Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 19 (a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. 1978, c. 47, s. 20.

Audit by-laws  
subject to  
approval

**21.** Every registrant whose financial affairs are not subject to examination under section 20 shall keep such books and records as are necessary for the proper recording of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by the registrant or an officer or partner of the registrant and reported upon by the auditor of the registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. 1978, c. 47, s. 21.

Filing of  
financial  
statements of  
registrants

## PART IX

### STOCK EXCHANGES

**22.—(1)** No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

Stock  
exchanges

(2) The Commission may, where it appears to it to be in the public interest, make any decision,

Commission's  
powers

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction, or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that issuers whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations.



Review of  
decisions of  
stock  
exchange

(3) Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. 1978, c. 47, s. 22.

Record of  
transactions

**23.** Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such stock exchange took place and shall supply to any customer of any member of such stock exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. 1978, c. 47, s. 23.

## PART X

### REGISTRATION

Registration  
for trading

**24.—(1)** No person or company shall,

- (a) trade in a security unless the person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer;
- (b) act as an underwriter unless the person or company is registered as an underwriter; or
- (c) act as an adviser unless the person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of the adviser,

and the registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

Termination  
re salesman

(2) The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by the other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. 1978, c. 47, s. 24.

Non-trading  
employee

**25.**—(1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration or amendment to registration is not objectionable.

Granting of  
registration

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities.

Terms and  
conditions

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. 1978, c. 47, s. 25.

Refusal

**26.**—(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest.

Suspension,  
cancellation,  
etc.

(2) Where the delay necessary for a hearing under subsection (1) would, in the opinion of the Commission; be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 8.

Interim  
suspension

(3) Notwithstanding subsection (1), the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest.

Surrender

Subsequent  
applications

**27.** A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. 1978, c. 47, s. 27.

Application

**28.** An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. 1978, c. 47, s. 28.

Address  
for service

**29.** Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. 1978, c. 47, s. 29.

Further  
information

**30.** The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. 1978, c. 47, s. 30.

Residence

**31.—(1)** The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration or if he is not a resident of Ontario at the date of the application unless at the time of the application the individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

Idem

**(2)** The Director may refuse registration to a person or company if any director or officer of the person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration or is not a resident of Ontario at the date of the application unless at the time of the application he

is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1978, c. 47, s. 31.

**32.**—(1) Subject to the regulations, every registered dealer shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

Notice of  
changes

- (a) any change in address for service in Ontario or any business address;
- (b) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor;
- (c) any change in the holders of the voting securities of the registered dealer;
- (d) the commencement and termination of employment of every registered salesman and, in the case of termination of employment, the reason therefor;
- (e) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (f) any change in the name or address of the person in charge of any branch office in Ontario.

(2) Subject to the regulations, every registered adviser <sup>Idem</sup> and underwriter shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address;
- (b) any change in the directors or officers of the registered adviser or underwriter and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor; and
- (c) any change in the holders of the voting securities of the registered adviser or underwriter.



Idem

(3) Every registered salesman shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in his address for service in Ontario or in his business address; and
- (b) every commencement and termination of his employment by a registered dealer.

Exemptions

(4) The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections (1) and (2) that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so. 1978, c. 47, s. 32.

## PART XI

### EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions  
of advisers

**33.** Registration as an adviser is not required to be obtained by,

1980-81,  
c. 40 (Can.)  
1974-75,  
c. 14 (Can.)

R.S.O. 1980,  
cc. 249, 218

- (a) a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), or a trust company registered under the *Loan and Trust Corporations Act*, or an insurance company licensed under the *Insurance Act*;
- (b) a lawyer, accountant, engineer or teacher;
- (c) a registered dealer, or any partner, officer or employee thereof; and
- (d) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation; or

- (e) such other persons or companies as are designated by the regulations. 1978, c. 47, s. 33.

**34.**—(1) Subject to the regulations, registration is not required in respect of the following trades: Exemption  
of trades

1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada) or by a receiver under the *Judicature Act* or by a liquidator under the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale. R.S.C. 1970,  
cc. B-3, W-10  
R.S.O. 1980,  
cc. 223, 95, 54
2. An isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, or by or on behalf of an owner in a specific security, for the owner's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.
3. A trade where the party purchasing as principal, but not as underwriter, is,
  - i. a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), 1980-81,  
c. 40 (Can.)  
1974-75,  
c. 14 (Can.)
  - ii. a loan corporation or trust company registered under the *Loan and Trust Corporations Act*, R.S.O. 1980,  
c. 249
  - iii. an insurance company licensed under the *Insurance Act*, R.S.O. 1980,  
c. 218
  - iv. Her Majesty in right of Canada or any province or territory of Canada, or
  - v. any municipal corporation or public board or commission in Canada.
4. A trade where the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser.
5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate

acquisition cost to such purchaser of not less than \$97,000.

6. A trade from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1 (1) for the purpose of giving collateral for a *bona fide* debt.
7. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt.
8. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.
9. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.
10. A trade in a security by a person or company acting solely through an agent who is a registered dealer.
11. The execution of an unsolicited order to purchase or sell through a registered dealer by a bank to which the *Bank Act* (Canada) applies or a trust company registered under the *Loan and Trust Corporations Act* as agent for a person or company and the trade by such person or company in placing the unsolicited order with the bank or trust company.
12. A trade by an issuer,
  - i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
  - ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws

1980-81,  
c. 40 (Can.)

R.S.O. 1980,  
c. 249

of the jurisdiction in which the issuer was incorporated, organized or continued,

- iii. in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

- 13. A trade by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie.

- 14. A trade by an issuer,

- i. in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or
- ii. in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

- iii. the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or
  - iv. the issuer has delivered to the Commission information relating to the securities that is satisfactory to and accepted by the Commission.
- 15. A trade in a security of a company that is exchanged by or for the account of the company with another company or the holders of the securities of that other company in connection with,



- i. a statutory amalgamation or arrangement, or
  - ii. a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.
- 16. A trade in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX.
  - 17. A trade in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 88 (2) or by the Commission under section 99.
  - 18. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000.
  - 19. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.
  - 20. A trade by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers.
  - 21. A trade made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,
    - i. each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase, except that subsequent sales to the same pur-

chasers may be carried out if made in compliance with written agreements entered into during that six month period,

- ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

- (a) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or

- (b) a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

- iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

- iv. no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this paragraph within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

- 22. A trade in a commodity futures option or a commodity futures contract by a hedger through a dealer, within the meaning of the *Commodity Futures Act*. R.S.O. 1980,  
c. 78

- 23. A trade in respect of which the regulations provide that registration is not required. 1978, c. 47, s. 34 (1); 1979, c. 86, s. 3.

(2) Subject to the regulations, registration is not required Exemption  
re securities to trade in the following securities:

## 1. Bonds, debentures or other evidences of indebtedness,

(a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;

(b) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;

(c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*;

(d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America; or

(e) of or guaranteed by the Asian Development Bank or the Inter-American Development Bank, if the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America and if, with respect to such securities, such documents, certificates, reports, releases, statements, agreements or other information as may be required by the Commission are filed.

2. Certificates or receipts issued by a trust company registered under the *Loan and Trust Corporations Act* for moneys received for guaranteed investment.

## 3. Securities issued by a private mutual fund.

1980-81,  
c. 40 (Can.)  
R.S.O. 1980,  
cc. 249, 218

R.S.C. 1970,  
c. B-9

4. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000.
5. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company registered or exempted from registration under the *Mortgage Brokers Act*.  
R.S.O. 1980,  
c. 295
6. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to an individual.
7. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.
8. Securities issued by corporations to which the *Co-operative Corporations Act* applies.  
R.S.O. 1980,  
c. 91
9. Shares of a credit union within the meaning of the *Credit Unions and Caisses Populaires Act*.  
R.S.O. 1980,  
c. 102
10. Securities of a private company where they are not offered for sale to the public.
11. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.
12. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, where the securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers a copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.



13. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, if the securities are not offered for sale to the public and are sold to not more than fifty persons or companies.
14. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.
15. Securities in respect of which the regulations provide that registration is not required.

Trades  
by trust  
company

R.S.O. 1980,  
c. 249

(3) For the purpose of subsection (1), a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it. 1978, c. 47, s. 34 (2, 3).

## PART XII

### TRADING IN SECURITIES GENERALLY

Confirmation  
of trade

**35.**—(1) Every registered dealer who has acted as principal or agent in connection with any trade in a security shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the registered dealer is acting as principal or agent;
- (d) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;
- (e) the date and the name of the stock exchange, if any, upon which the transaction took place;
- (f) the commission, if any, charged in respect of the trade; and

(g) the name of the salesman, if any, in the transaction.

(2) Where a trade is made in a security of a mutual fund, <sup>Idem</sup> the confirmation shall contain, in addition to the requirements of subsection (1),

(a) the price per share or unit at which the trade was effected; and

(b) the amount deducted by way of sales, service and other charges.

(3) Subject to the regulations, where a trade is made in a <sup>Idem</sup> security of a mutual fund under a contractual plan, the confirmation shall contain in addition to the requirements of subsections (1) and (2),

(a) in respect of an initial payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the initial payment and the portion of the sales, service and other charges that is allocated to subsequent investments in the mutual fund and the manner of allocation thereof;

(b) in respect of each subsequent payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the portion of the sales, service and other charges, that is allocated to the payment which is the subject of the confirmation;

(c) in respect of an initial purchase made under a contractual plan which permits the deduction of sales, service and other charges from the first and subsequent instalments, a brief statement of the sales, service and other charges to be deducted from subsequent purchases;

(d) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date the confirmation is sent or delivered.

Coded  
identification

(4) For the purposes of clauses (1) (d) and (g), a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing  
of code

(5) Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

Disclosure  
by agent

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. 1978, c. 47, s. 35.

Order  
prohibiting  
calls to  
residences

**36.**—(1) The Commission may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company or class of persons or companies named or described in the order to,

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security or in any class of securities.

Hearing

(2) The Commission shall not make an order under subsection (1) without giving the person or company or class of persons or companies affected an opportunity to be heard.

"residence"  
defined

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

What  
constitutes  
calls

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned

where an officer, director or salesman of the person or company calls or telephones on its behalf. 1978, c. 47, s. 36.

**37.**—(1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that he or any person or company, <sup>Representations prohibited</sup>

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of,

such security.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. <sup>Future value</sup>

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange. <sup>Listing</sup>

(4) This section does not apply to any representation referred to in subsection (1) made to a person or to a company where the representation is contained in an enforceable written agreement and the security has an aggregate acquisition cost of more than \$50,000. 1978, c. 47, s. 37. <sup>Application of section</sup>

**38.**—(1) Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in the trade as a principal, the registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. <sup>Where dealer is principal</sup>



**Effect of  
statement**

(2) A statement made in compliance with this section or clause 35 (1) (c) that a dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

**Application  
of section**

(3) This section does not apply to trades referred to in subsection 34 (1) or to securities referred to in subsection 34 (2). 1978, c. 47, s. 38.

**Disclosure of  
financial  
interest of  
advisers and  
dealers**

**39.** Subject to the regulations, every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in which the adviser recommends that a specific security be purchased, sold or held, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser if the adviser was a reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;
- (b) any option that any of them may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;
- (d) any financial arrangement relating to such securities that any of them may have with any person or company; and
- (e) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. 1978, c. 47, s. 39.

**40.** Every registered dealer that recommends a purchase, sale, exchange or hold of a security in any circular, pamphlet, advertisement, letter, telegram or other publication issued, published or sent by it and intended for general circulation shall, in type not less legible than that used in the body of the publication, state whether the registered dealer or any of its officers or directors has at any time during the past twelve months assumed an underwriting liability with respect to such securities or for consideration provided financial advice to the issuer of such securities or whether the registered dealer or any of its officers or directors will receive any fees as a result of the recommended action. 1978, c. 47, s. 40.

**41.** Every registered dealer shall publish the name of every person or company having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the dealer, on all letterheads, circulars and stationery that contain any offer or solicitation respecting a trade in securities or in a preliminary prospectus or prospectus upon or in which the name of the registered dealer appears as underwriter but where the Commission determines that a registered dealer or a class of registered dealers is subject to conditions of registration or to regulations imposed by a self-regulatory organization that require provision to customers in the same or some other manner of other appropriate information, the Commission may, subject to such terms and conditions as the Commission may impose, exempt the registered dealer or class of registered dealers from the requirements of this section. 1978, c. 47, s. 41.

**42.** No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. 1978, c. 47, s. 42.

**43.** No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. 1978, c. 47, s. 43.

**44.** No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. 1978, c. 47, s. 44.

**45.** No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. 1978, c. 47, s. 45.

Margin  
contracts

**46.**—(1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which,

- (a) he;
- (b) his firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers, any such contract with a customer is, at the option of the customer, voidable and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

Exercise  
of option

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. 1978, c. 47, s. 46.

Declaration  
as to short  
position

**47.** Any person or company who places an order for the sale of a security through an agent acting for him that is a registered dealer and who,

- (a) at the time of placing the order, does not own the security; or
- (b) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. 1978, c. 47, s. 47.

Shares in  
name of  
registrant  
not to be  
voted

**48.**—(1) Subject to subsection (4), voting securities of an issuer registered in the name of,

- (a) a registrant or in the name of his nominee; or

- (b) a custodian or in the name of his nominee, where such issuer is a mutual fund that is a reporting issuer,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security so registered at the record date for notice of meeting a copy of any notice, financial statement, information circular or other material but the registrant or custodian is not required to send or deliver such material unless the issuer or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing.

Forwarding  
of information  
by  
registrant

(3) At the request of a registrant or custodian, the person or company sending material referred to in subsection (2) shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material.

Copies of  
information

(4) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection (1) in accordance with any written voting instructions received from the beneficial owner.

Voting  
of shares

(5) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection (1).

Proxies

(6) For the purpose of this section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement. 1978, c. 47, s. 48.

"custodian"  
defined

**49.—**(1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver

Submission  
of  
advertising



to the Commission at least seven days before it is used, copies of all advertising and sales literature which the registered dealer proposes to use in connection with trading in securities.

Interpre-  
tation

(2) For the purposes of this section,

- (a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and
- (b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

Prohibition  
of  
advertising

(3) Where the Commission has issued an order pursuant to subsection (1), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Rescission  
or variation  
of order

(4) Where an order has been made pursuant to subsection (1), the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. 1978, c. 47, s. 49.

## PART XIII

### PROSPECTING SYNDICATES

Agreements

**50.**—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

- (a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;
- (b) the agreement clearly sets out,
  - (i) the purpose of the syndicate,

- (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
- (iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,
- (iv) the maximum number of units in the syndicate, not exceeding  $33\frac{1}{3}$  per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,
- (v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,
- (vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,
- (vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,
- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

(xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and

(c) the agreement limits the capital of the syndicate to a sum not exceeding \$250,000.

Receipt  
for filed  
agreement

(2) The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses (1) (a), (b) and (c).

Application of  
R.S.O. 1980,  
c. 371

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of the *Partnerships Registration Act* as to filing do not apply to the prospecting syndicate.

Prohibition  
of trading  
by dealer

(4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal.

Receipt

(5) The Director shall not refuse to issue a receipt under subsection (1) without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. 1978, c. 47, s. 50.

## PART XIV

### PROSPECTUSES—DISTRIBUTION

"distribution"  
extended  
meaning

**51.** To but not including the 15th day of March, 1981, for the purposes of sections 53 to 63, "distribution" means only a distribution that is a distribution to the public. 1978, c. 47, s. 51.

Prospectus  
required

**52.—(1)** No person or company shall trade in a security on his own account or on behalf of any other person or company,

(a) before the 15th day of March, 1981, where such trade would be a distribution to the public of such security;

(b) on and after the 15th day of March, 1981, where such trade would be a distribution of such security,

unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director.

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. 1978, c. 47, s. 52. Filing without distribution

**53.**—(1) A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by the regulations need not be included. Preliminary prospectus

(2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. 1978, c. 47, s. 53. Idem

**54.** The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. 1978, c. 47, s. 54. Receipt for preliminary prospectus

**55.**—(1) A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations. Prospectus

(2) The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. 1978, c. 47, s. 55. Supplemental material

**56.**—(1) Subject to subsection (2), where a material adverse change occurs after a receipt is obtained for a preliminary prospectus filed in accordance with subsection 52 (1) and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution under such prospectus, an amendment to such preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs. Amendment to preliminary prospectus on material change

(2) Where an amendment to a prospectus is filed under subsection (1) for the purpose of distributing securities in addition to the securities previously disclosed in the prospectus or an amendment to the prospectus such additional distribution shall not be proceeded with for a period of ten days Idem



after the amendment is filed or, in the event the Commission informs the party filing in writing within ten days of the filing that it objects to the further distribution until such time as a receipt for the amended prospectus is obtained from the Director.

Notice of  
amendment

(3) An amendment to a preliminary prospectus referred to in subsection (1) shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 66. 1978, c. 47, s. 56.

Certificate  
by issuer

**57**—(1) Subject to subsection (3) of this section and subsection 62 (2), a prospectus filed under subsection 52 (1) or subsection 61 (1) shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

*The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of the Securities Act and the regulations thereunder.*

1978, c. 47, s. 57 (1); 1979, c. 86, s. 4 (1).

Idem

(2) Subject to subsection (3) of this section and subsection 62 (2), a prospectus filed under subsection 52 (2) shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

*The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities previously issued by the issuer as required by Part XIV of the Securities Act and the regulations thereunder.*

1978, c. 47, s. 57 (2); 1979, c. 86, s. 4 (2).

Idem

(3) Where the issuer has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer.

Idem

(4) Where the Director is satisfied upon evidence or submissions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer.

(5) With the consent of the Director, a promoter need not <sup>Idem</sup> sign the certificate in a prospectus.

(6) The Director may, in his discretion, require any <sup>Certificate of promoter</sup> person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection (1) or (2) subject to such conditions as the Director may consider proper.

(7) With the consent of the Director, a promoter may sign <sup>Idem</sup> a certificate in a prospectus by his agent duly authorized in writing. 1978, c. 47, s. 57 (3-7).

**58.**—(1) Subject to subsection 62 (2), where there is an under- <sup>Certificate of underwriter</sup> writer, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or security holder whose securities are being offered by the prospectus:

*To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of the Securities Act and the regulations thereunder.*

1978, c. 47, s. 58 (1); 1979, c. 86, s. 5.

(2) With the consent of the Director, an underwriter may <sup>Idem</sup> sign a certificate in a prospectus by his agent duly authorized in writing. 1978, c. 47, s. 58 (2).

**59.** Every prospectus shall contain a statement of the <sup>Statement of rights</sup> rights given to a purchaser by sections 70 and 126. 1978, c. 47, s. 59.

**60.**—(1) Subject to subsection (2) of this section and subsection 62 (4), the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so. 1978, c. 47, s. 60 (1); 1979, c. 86, s. 6. <sup>Issuance of receipt</sup>

(2) The Director shall not issue a receipt for a prospectus <sup>Refusal of receipt</sup> if it appears to him that,

(a) the prospectus or any document required to be filed therewith,

(i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or

- (iii) contains a misrepresentation;
- (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
- (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;
- (d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;
- (e) the past conduct of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders;
- (f) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into;
- (g) such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of the securities has not been entered into;
- (h) in the case of a prospectus filed by a finance company, as defined in the regulations,
  - (i) the plan of distribution of the securities offered is not acceptable,
  - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or

(iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations; or

(i) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.

(3) The Director shall not refuse to issue a receipt under subsection (1) or (2) without giving the person or company who filed the prospectus an opportunity to be heard. Hearing

(4) Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus, or prospectus raises a material question involving the public interest under subsection (1) or a new or novel question of interpretation under subsection (2) that might result in the Director refusing to issue a receipt under subsection (1) or (2), the Director may refer the question to the Commission for determination. Referral to Commission

(5) The Director shall state the question in writing setting out the facts upon which the question is based. Form of question

(6) The question, together with any additional material, shall be lodged by the Director with the Secretary of the Commission, and a copy of the question shall forthwith be served by the Secretary upon any interested person or company. Filing of question

(7) The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration under subsections (1) and (2). Hearing by Commission

(8) Subject to any order of the Divisional Court made under section 9, the decision of the Commission on the question is binding on the Director. 1978, c. 47, s. 60 (2-8). Decision of Commission

**61.**—(1) No distribution of a security to which subsection 52 (1) applies shall continue longer than twelve months from the later of either, Refiling of prospectus

(a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or



- (b) the date of the last prospectus filed under this section,

as the case may be, which shall be the lapse date, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director.

Idem

(2) A distribution may be continued for a further twelve months if,

- (a) a *pro forma* prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;
- (b) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and
- (c) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.

Idem

(3) The continued distribution of securities after the lapse date does not contravene subsection (1) unless and until any of the conditions of subsection (2) are not complied with.

Failure to  
refile

(4) Subject to any extension granted under subsection (5), all trades completed in reliance upon subsection (2) after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the failure to comply with such conditions where any of the conditions to the continuation of a distribution under subsection (2) are not complied with.

Extension  
of time

(5) The Commission may, upon an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection (2) where in its opinion it would not be prejudicial to the public interest to do so. 1978, c. 47, s. 61.

Short form  
prospectus

**62.**—(1) A person or company may, if permitted by the regulations, file a short form of preliminary prospectus and a short form of prospectus in the prescribed form under section 52, or a short form of *pro forma* prospectus and a short form of prospectus in the prescribed form under section 61, and any such prospectus that complies with the regulations applicable thereto shall, for the purposes of section 55, be considered to provide sufficient disclosure of all material facts relating to the securities issued or proposed to be distributed under the prospectus.

(2) A short form prospectus may contain one or more forms of certificate to be signed as alternatives to the forms of certificate set out in subsections 57 (1) and (2) and subsection 58 (1) and, where any such certificate in a short form prospectus is used in accordance with the regulations, it is not necessary to use the alternative certificate required by subsections 57 (1) and (2) and subsection 58 (1), as the case may be.

Alternative  
certificates

(3) A person or company may, if permitted by the regulations, file a summary statement as a separate document in the prescribed form together with a prospectus filed under section 52 or 61.

Summary  
statement

(4) Where a summary statement is filed with a prospectus, the Director shall not issue a receipt for the prospectus if it appears to him that the summary statement does not comply with the regulations applicable thereto.

Refusal of  
summary  
statement

(5) A summary statement filed with a prospectus for which a receipt has been issued may be sent or delivered by a dealer to a purchaser of securities instead of a prospectus as required in section 70, and, where a dealer so elects, the provisions of sections 70 and 130 with respect to a prospectus apply with necessary modifications to a summary statement.

Delivery of  
summary  
statement

(6) Every summary statement sent or delivered to a purchaser shall contain a statement informing the purchaser that a copy of the prospectus which was filed with the summary statement will be provided to the purchaser on request, and each person or company who signs or causes to be signed, as the case may be, the certificate contained in the prospectus shall ensure compliance with any such request.

Delivery of  
prospectus  
on request

(7) Where, during the distribution or distribution to the public of a security under a prospectus, an order is made to cease trading in the security, or the receipt issued by the Director for the prospectus is revoked or the prospectus lapses or the use of a prospectus is otherwise prohibited by the Act, the regulations or by a decision of the Commission or an order of a court, a summary statement filed with the prospectus shall cease to have force and effect for the purposes of section 70 unless the Director otherwise orders.

Summary  
statement  
without  
force and  
effect

(8) Nothing in this section shall be construed to provide relief from liability arising under section 126 where a misrepresentation is contained in a prescribed short form prospectus and, for the purposes of section 126, where a misrepresentation is contained in a summary statement filed with a prospectus, the misrepresentation shall be deemed to be contained in the prospectus. 1979, c. 86, s. 7.

Liability  
not  
affected

Orders to  
furnish  
information  
re distribu-  
tion to  
public

**63.**—(1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of the securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of the securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations.

Idem

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. 1978, c. 47, s. 63.

## PART XV

### DISTRIBUTION—GENERALLY

“waiting  
period”  
defined

**64.**—(1) In this section, “waiting period” means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus.

Distribution  
of material  
during  
waiting  
period

(2) Notwithstanding section 52, but subject to Part XII, it is permissible during the waiting period,

- (a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be

permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained ;

- (b) to distribute a preliminary prospectus ; and
- (c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. 1978, c. 47, s. 64.

**65.** Any dealer distributing a security to which section 64 applies shall, in addition to the requirements of clause 64 (2) (c), send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of such preliminary prospectus. 1978, c. 47, s. 65.

Distribution  
of  
preliminary  
prospectus

**66.** Any dealer distributing a security to which section 64 applies shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded. 1978, c. 47, s. 66.

Distribution  
list

**67.** Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regulations as to form and content, he may, without giving notice, order that the trading permitted by subsection 64 (2) in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 66. 1978, c. 47, s. 67.

Defective  
preliminary  
prospectus

**68.** From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause 64 (2) (a) or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations. 1978, c. 47, s. 68.

Material  
given on  
distribution



Order  
to cease  
trading

**69.**—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 60 (2) exist, the Commission may order that the distribution of the securities under the prospectus shall cease.

Hearing

(2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded. 1978, c. 47, s. 69 (1, 2).

Notice

(3) A notice of every order made under this section shall be served upon the issuer to whose securities the prospectus relates, and forthwith upon the receipt of the notice,

(a) distribution of the securities under prospectus by the person or company named in the order shall cease; and

(b) any receipt issued by the Director for the prospectus is revoked. 1978, c. 47, s. 69 (3); 1979, c. 86, s. 8.

Obligation  
to deliver  
prospectus

**70.**—(1) A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 52 (1) or section 61 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

Withdrawal  
from  
purchase

(2) An agreement of purchase and sale referred to in subsection (1) is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

(3) Subsection (2) does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection (2), otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (2). Application  
of subs. (2)

(4) For the purpose of this section, where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed. Time of  
receipt

(5) The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection (1) shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus. Receipt of  
prospectus  
by agent

(6) The receipt of the notice referred to in subsection (2) by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection (1) shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice. Receipt of  
notice by  
agent

(7) For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale. Dealer  
as agent

(8) The onus of proving that the time for giving notice under subsection (2) has expired is upon the dealer from whom the purchaser has agreed to purchase the security. Onus of  
proof

## PART XVI

### EXEMPTIONS FROM PROSPECTUS REQUIREMENTS

**71.**—(1) Subject to the regulations, sections 52 and 61 do not apply to a distribution where, Prospectus  
not  
required

(a) the purchaser is,

1980-81,  
c. 40 (Can.)

- (i) a bank to which the *Bank Act* (Canada) applies or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada),

1974-75,  
c. 14 (Can.)

- (ii) a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,

R.S.O. 1980,  
c. 249

- (iii) an insurance company licensed under the *Insurance Act*,

R.S.O. 1980,  
c. 218

- (iv) Her Majesty in right of Canada or any province or territory of Canada, or

- (v) any municipal corporation or public board or commission in Canada,

who purchases as principal;

- (b) the trade is an isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities;

- (c) the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser;

- (d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000;

- (e) the trade is to a lender, pledgee, mortgagee or other encumbrancer from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1 (1) for the purpose of giving collateral for a *bona fide* debt;

- (f) the trade is made by an issuer,

- (i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,

- (ii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued, or
- (iii) in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

- (g) the trade is made by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie;
- (h) the trade is made by an issuer,
  - (i) in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or
  - (ii) in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and either,

- (iii) the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or
- (iv) the issuer has delivered to the Commission information relating to the securities that is



satisfactory to and accepted by the Commission;

- (i) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,
  - (i) a statutory amalgamation or arrangement, or
  - (ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company;
- (j) the trade is made in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX;
- (k) the trade is made in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 88 (2) or by the Commission under section 99;
- (l) the trade is made by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000;
- (m) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;
- (n) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment;
- (o) the trade is made by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which

case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers;

- (p) the trade is made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,
  - (i) each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six month period,
  - (ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,
    - A. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer, or
    - B. a senior officer or director of the issuer or his spouse, parent, brother, sister or child,
  - (iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and
  - (iv) no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption;

(*q*) the trade is made from one registered dealer to another registered dealer where the registered dealer making the purchase is acting as principal;

(*r*) the trade is made between a person or company and an underwriter acting as purchaser or between or among underwriters; or

(*s*) the trade is in a commodity futures option or commodity futures contract where such trade is that of a hedger through a dealer, within the meaning of the *Commodity Futures Act*, 1978, c. 47, s. 71 (1); 1979, c. 86, s. 9 (1).

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c. 78

Trust  
companies  
deemed  
principals  
R.S.O. 1980,  
c. 249

(2) For the purpose of subsection (1), a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it.

Report

1980-81,  
c. 40 (Can.)

(3) Subject to the regulations, where a trade has been made under clause (1) (*a*), (*b*), (*c*), (*d*), (*l*), (*p*) or (*q*), the vendor shall within ten days file a report prepared and executed in accordance with the regulations, but no report is required where, by a trade under clause (1) (*a*), a bank to which the *Bank Act* (Canada) applies or a loan corporation or trust company registered under the *Loan and Trust Corporations Act* acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

First  
trades  
deemed  
distribution

(4) The first trade in securities previously acquired pursuant to an exemption contained in clause (1) (*a*), (*b*), (*c*), (*d*), (*l*), (*m*), (*p*) or (*q*), other than a further trade exempted by subsection (1), is a distribution, unless,

(*a*) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act or the regulations;

(*b*) (i) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and comply with the requirements of clause 388 (1) (*m*) or (*n*) as the case may be, of the *Insurance Act*, and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or

R.S.O. 1980,  
c. 218

- (ii) the securities are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and comply with the requirements of clause 388 (1) (k) or (m), as the case may be, of the *Insurance Act*, and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
  - (iii) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later, or
  - (iv) the securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later; and
- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations,

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c. 218

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(5) The first trade in securities previously acquired under an <sup>Idem</sup> exemption contained in clause (1) (f), (i), (j), (k) or (n) and the first trade in previously issued securities of a company that has ceased to be a private company, other than a further trade exempted by subsection (1), is a distribution except that where,

- (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months or, in the case of securities acquired under clause (1) (i), one of the amalgamating or merged corporations or one of the continuing corporations has been a reporting issuer for twelve months and the issuer is not in default of any requirement of this Act or the regulations;



- (b) disclosure to the Commission has been made of its exempt trade or in the case of a company that has ceased to be a private company the issuer has filed with the Commission such report with respect to its outstanding securities as may be required by the regulations; and
- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade,

then such first trade is a distribution only if it is a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1).

Idem

(6) The first trade in securities previously purchased under an exemption contained in clause (1) (o) or (r), other than a further trade exempted by subsection (1), is a distribution. 1978, c. 47, s. 71 (2-6).

Prospectus  
not  
required

(7) Sections 52 and 61 do not apply to a distribution within the meaning of subparagraph iii of paragraph 11 of subsection 1 (1) or by a lender, pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause (1) (e), if,

(a) the distribution is exempted by subsection (1); or

(b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller, unless exempted by the regulations,

(i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the first trade made to carry out the distribution,

A. a notice of intention to sell in the form prescribed by the regulations disclosing

particulars of the control position known to him, the number of securities to be sold and the method of distribution, and

- B. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

“The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed”,

and,

- (ii) files within three days after the completion of any trade, a report of the trade in the form prescribed under Part XX,

provided that the notice required to be filed under sub-subclause (i) (A) and the declaration required to be filed under sub-subclause (i) (B) shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. 1978, c. 47, s. 71 (7); 1979, c. 86, s. 9 (2).

Certificate re  
reporting  
issuer

(8) Subject to subsection (10), for the purpose of determining whether an issuer is a reporting issuer and, if so, whether the reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to apply to the Commission for a certificate issued for this purpose in accordance with section 136 and is entitled to rely on the certificate.

List re  
defaulting  
reporting  
issuers

(9) Subject to subsection (10), for the purpose of determining whether a reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a list of defaulting reporting issuers which shall be maintained by the Commission for public inspection in its offices during its normal business hours.

Exception

(10) No person or company who knows or ought reasonably to know that a reporting issuer is in default may rely on the certificate or on the list.

Reporting  
issuers

(11) For the purposes of this section, an issuer shall be deemed to have been a reporting issuer from the date that it met the condition of the appropriate subparagraph of paragraph 38 of subsection 1 (1) provided that in each case it is currently in compliance with the requirements of this Act and in the case of qualification under subparagraph iii of paragraph 38 of subsection 1 (1) it is also currently listed and posted for trading on any stock exchange in Ontario recognized by the Commission. 1978, c. 47, s. 71 (8-11).

Prospectus  
not  
required

**72.**—(1) Sections 52 and 61 do not apply to a distribution of securities,

- (a) referred to in subsection 34 (2), excepting paragraphs 14 and 15 thereof;
- (b) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where the securities are distributed through the facilities of the stock exchange pursuant to the rules of the stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by the stock exchange and the Commission;
- (c) that are options to sell or purchase securities known as puts and calls or any combination thereof which provide that the holder thereof may sell to or purchase from the writer of the option a specified amount

of securities at a specific price, on or prior to a specified date or the occurrence of a specified event, provided,

- (i) the option has been written by a member of an exchange recognized by the Commission for this purpose or the performance under the option is guaranteed by a member of an exchange recognized by the Commission for this purpose,
  - (ii) the securities that are the subject of the option are listed and posted for trading on an exchange recognized by the Commission for this purpose, and
  - (iii) the option is in the form from time to time prescribed by the regulations; or
- (d) that are exempted by the regulations.

(2) Sections 70 and 126 apply with necessary modifications to a distribution under clause (1) (b) as if sections 52 and 61 were applicable thereto, and the statement of material facts referred to in clause (1) (b) shall be deemed conclusively to be a prospectus for the purposes of sections 70 and 126. 1978, c. 47, s. 72. Application of ss. 70, 126

**73.**—(1) The Commission may, upon the application of an interested person or company, rule that any trade, intended trade, security, person or company is not subject to section 24 or 52 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are considered necessary. 1979, c. 86, s. 10. Exemption order

(2) Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly. Determination of whether distribution has ceased

(3) A decision of the Commission under this section is final and there is no appeal therefrom. 1978, c. 47, s. 73 (2, 3). Ruling final

## PART XVII

### CONTINUOUS DISCLOSURE

**74.**—(1) Subject to subsection (3), where a material change occurs in the affairs of a reporting issuer, it shall forthwith Publication of material change



issue and file a press release authorized by a senior officer disclosing the nature and substance of the change.

Report of  
material  
change

(2) Subject to subsection (3), the reporting issuer shall file a report of such material change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

Idem

(3) Where,

- (a) in the opinion of the reporting issuer, the disclosure required by subsections (1) and (2) would be unduly detrimental to the interests of the reporting issuer; or
- (b) the material change consists of a decision to implement a change made by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable and senior management of the issuer has no reason to believe that persons with knowledge of the material change have made use of such knowledge in purchasing or selling securities of the issuer,

the reporting issuer may, in lieu of compliance with subsection (1), forthwith file with the Commission the report required under subsection (2) marked "confidential" together with written reasons for non-disclosure.

Idem

(4) Where a report has been filed with the Commission under subsection (3), the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of filing of the initial report and every ten days thereafter until the material change is generally disclosed in the manner referred to in subsection (1) or, if the material change consists of a decision of the type referred to in clause (3) (b), until that decision has been rejected by the board of directors of the issuer. 1978, c. 47, s. 74.

Trading  
where  
undisclosed  
change

**75.**—(1) No person or company in a special relationship with a reporting issuer shall,

- (a) purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change in the affairs of the reporting issuer that he or it knew or ought reasonably to have known had not been generally disclosed; or
- (b) inform, other than in the necessary course of business, another person or company about a fact or change

which he knows is a material fact or material change before the material fact or material change has been generally disclosed.

(2) No purchaser or vendor shall be found to have contravened clause (1) (a) if such purchaser or vendor proves that he did not make use of knowledge of the material fact or material change in purchasing or selling the securities. Exception

(3) For the purposes of this section, a person or company is in a special relationship with a reporting issuer where, Interpre-  
tation

- (a) the person or company is an insider or an affiliate of the reporting issuer;
- (b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;
- (c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or
- (d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause (a), (b) or (c). 1978, c. 47, s. 75.

**76.**—(1) Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement, Interim  
financial  
statements

- (a) where the reporting issuer has not completed its first financial year, for the periods commencing with the beginning of that year and ending nine, six and three months respectively before the date on which that year ends, but no interim financial statement is required to be filed for any period that is less than three months in length;
- (b) where the reporting issuer has completed its first financial year, to the end of each of the three-month, six-month and nine-month periods of the current financial year that commenced immediately following the last financial year, including a comparative statement to the end of each of the corresponding periods in the last financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles.

Idem

(2) Every mutual fund in Ontario shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) where the reporting issuer has not completed its first financial year, for the period commencing with the beginning of that year and ending six months before the date on which that year ends but, if the first financial year is less than six months in length, no interim financial statement is required to be filed;
- (b) where the reporting issuer has completed its first financial year, for the six-month period of the current financial year that commenced immediately following the last financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles. 1979, c. 86, s. 11.

Compara-  
tive  
financial  
statements

**77.**—(1) Every reporting issuer that is not a mutual fund and every mutual fund in Ontario shall file annually within 140 days from the end of its last financial year comparative financial statements relating separately to,

- (a) the period that commenced on the date of incorporation or organization and ended as of the close of the first financial year or, if the reporting issuer or mutual fund has completed a financial year, the last financial year, as the case may be; and
- (b) the period covered by the financial year next preceding the last financial year, if any,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles.

Auditor's  
report

(2) Every financial statement referred to in subsection (1) shall be accompanied by a report of the auditor of the reporting issuer or mutual fund prepared in accordance with the regulations.

Auditor's  
examination

(3) The auditor of a reporting issuer or mutual fund shall make such examinations as will enable him to make the report required by subsection (2).

"auditor"  
defined

(4) For the purposes of this Part, "auditor", where used in relation to the reporting issuer or mutual fund, includes the auditor of the reporting issuer or mutual fund and any other independent public accountant. 1978, c. 47, s. 77.

**78.** Every financial statement required to be filed pursuant to section 76 or section 77 shall be concurrently sent by the reporting issuer or the mutual fund in Ontario, as the case may be, to each holder of its securities, other than debt instruments, whose latest address as shown on the books of the reporting issuer is in Ontario, but where the reporting issuer is subject to a corresponding requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued then compliance with such corresponding requirement shall be deemed to be compliance with this section. 1978, c. 47, s. 78.

Delivery of  
financial  
statements  
to security  
holders

**79.** Upon the application of a reporting issuer or upon the motion of the Commission, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

Relief  
against  
certain  
require-  
ment

- (a) permitting the omission from the financial statements required to be filed under this Part of,
  - (i) comparative financial statements for particular periods of time,
  - (ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer, or
  - (iii) basic earnings per share or fully diluted earnings per share; or
- (b) exempting, in whole or in part, any reporting issuer or class of reporting issuers from a requirement of this Part or the regulations relating to a requirement of this Part,
  - (i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer or class of reporting issuers is incorporated, organized or continued,
  - (ii) if the reporting issuer or class of reporting issuers ordinarily distributes financial information to holders of its, or their, securities in a form, or at times, different from those required by this Part, or



- (iii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing. 1978, c. 47, s. 79.

Filing of  
information  
circular

**80.**—(1) Where the management of a reporting issuer is required to send an information circular under clause 85 (1)(a), the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

Idem

(2) In any case where subsection (1) is not applicable, the reporting issuer shall file annually within 140 days from the end of its last financial year a report prepared and certified in accordance with the regulations. 1978, c. 47, s. 80.

Filing of  
documents  
filed in  
another  
jurisdiction

**81.** Where the laws of the jurisdiction in which the reporting issuer was incorporated, organized or continued require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. 1978, c. 47, s. 81.

Order  
relieving  
small  
reporting  
issuer

**82.** Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. 1978, c. 47, s. 82.

## PART XVIII

### PROXIES AND PROXY SOLICITATION

Interpre-  
tation

**83.** In this Part,

- (a) "information circular" means an information circular prepared in accordance with the regulations;
- (b) "solicit" and "solicitation" include,

- (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
- (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
- (iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,
- (iv) the sending or delivery of a form of proxy to a security holder under section 84,

but do not include,

- (v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. 1978, c. 47, s. 83.

**84.** Subject to section 87, if the management of a reporting issuer gives or intends to give to holders of its voting securities notice of a meeting, the management shall, concurrently with or prior to giving the notice to the security holders whose latest address as shown on the books of the reporting issuer is in Ontario, send by prepaid mail to each such security holder who is entitled to notice of meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at the meeting that complies with the regulations. 1978, c. 47, s. 84.

Mandatory  
solicitation  
of proxies

**85.—**(1) Subject to subsection (2) and section 87, no person or company shall solicit proxies from holders of its voting securities whose latest address as shown on the books of the reporting issuer is in Ontario unless,

Information  
circular

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such

security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or

- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such security holder whose proxy is solicited.

Application  
of subs. (1)

(2) Subsection (1) does not apply to,

- (a) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;
- (b) any solicitation by a person or company made under section 48; or
- (c) any solicitation by a person or company in respect of securities of which he is the beneficial owner. 1978, c. 47, s. 85.

Voting  
where  
proxies

**86.** The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

- (a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. 1978, c. 47, s. 86.

Compliance  
with laws  
of other  
jurisdiction

**87.—**(1) Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it

is incorporated, organized or continued and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

(2) Subject to subsection (1), upon the application of any interested person or company, the Commission may, <sup>Exemption by order</sup>

- (a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or
- (b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as the Commission may impose; exempting, in whole or in part, a person or company from the requirements of this Part and of section 80. 1978, c. 47, s. 87.

## PART XIX

### TAKE-OVER BIDS AND ISSUER BIDS

**88.—**(1) In this Part,

<sup>Interpre-  
tation</sup>

- (a) “class of securities” means the particular class or series of securities for which a take-over bid or an issuer bid is made;
- (b) “day” means a clear day and a period of days shall be deemed to commence the day following the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a Sunday or holiday;
- (c) “directors’ circular” means a directors’ circular prepared in accordance with the regulations;
- (d) “issuer bid” means,
  - (i) an offer made by an issuer to security holders the last address of any of whom as shown on the books of the issuer is in Ontario to purchase, redeem or otherwise acquire any or all



of a class of the securities of the issuer, other than debt securities that are not convertible into equity securities,

- (ii) the acceptance by an issuer of an offer to sell securities of the issuer, other than debt securities that are not convertible into equity securities, and the issuer accepting the offer to sell shall be deemed to be an offeror;
- (e) “market price”, as to securities in which there is a published market, at any date, means,
- (i) except where a determination has been made by the Commission under clause 99 (b), the price determined in accordance with the regulations, by reference to the price of such securities as established by trades on the published market, or
  - (ii) where the Commission has made a determination of market price under clause 99 (b), the price so determined;
- (f) “offeree” means a person or company to whom a take-over bid or an issuer bid is made and whose latest address as shown on the books of the offeree company is in Ontario;
- (g) “offeree company” means a company or other issuer whose securities are the subject of a take-over bid;
- (h) “offeror” means a person or company other than an agent, who makes a take-over bid or an issuer bid and where two or more persons or companies make offers,
- (i) jointly or in concert, or
  - (ii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offers,

then each of them shall be deemed to be an offeror if the offer made by any of them is a take-over bid;

- (i) “offeror’s presently-owned securities” means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or associates of the offeror and

where two or more persons or companies make offers,

- (i) jointly or in concert, or
- (ii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offers,

includes the voting securities owned by all of such persons or companies and their associates;

(j) "published market", as to any class of securities, means a stock exchange recognized by the Commission for purposes of this Part on which such securities are listed, or any other market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation;

(k) "take-over bid" means,

- (i) an offer made to security holders, the last address of any of whom as shown on the books of the offeree company or other issuer is in Ontario, to purchase directly or indirectly voting securities of the company or other issuer,
- (ii) the acceptance by a person or company of an offer to sell voting securities of a company or other issuer and such acceptance shall be deemed to constitute an offer to purchase and the person or company accepting the offer shall be deemed to be an offeror, or
- (iii) a combination of an offer to purchase referred to in subclause (i) and an acceptance of an offer to sell referred to in subclause (ii),

where the voting securities which are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the offeror's presently owned securities will in the aggregate exceed 20 per cent of the outstanding voting securities of the company or other issuer and where two or more persons or companies make or accept offers jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities

to be acquired, then the securities owned by each of them shall be included in the calculation of the percentage of the outstanding voting securities of the company or other issuer owned by each of them; and

- (l) "uniform act province" means a province or territory of Canada designated in the regulations as a province or territory which has legislation in effect containing provisions substantially the same as this Part and section 129. 1978, c. 47, s. 88 (1).

Exempted  
take-over  
bids

(2) Subject to subsection 91 (1), a take-over bid is exempted from the requirements of this Part where,

- (a) it is made through the facilities of a stock exchange recognized by the Commission for the purpose of this section according to the by-laws, regulations or policies of the stock exchange;
- (b) it is an offer to purchase securities in a private company;
- (c) it is an offer to purchase securities by way of agreements with fewer than fifteen security holders and not made pursuant to an offer to security holders generally, but where an offeror enters into an agreement to purchase securities from a person or company and the offeror knows or ought to know after reasonable inquiry that,
  - (i) one or more other persons or companies on whose behalf that person or company is acting as trustee, executor, administrator or other legal representatives, have a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of security holders with whom there have been agreements, but where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered to be a single security holder in such determination, or
  - (ii) the person or company acquired the securities during the two years preceding the date of the agreement with the intent that they should be sold under such agreement, then

each person or company from whom those securities were acquired shall be included in the determination of the number of security holders with whom there have been agreements;

- (d) it involves the acquisition of not more than 5 per cent of the voting securities of the offeree company but the aggregate number of voting securities acquired by the offeror, his associates or affiliates within any period of twelve consecutive months in reliance on the exemption provided by this clause shall not, when aggregated with acquisitions made under clause (a) during the same twelve-month period, exceed 5 per cent of the outstanding voting securities of the offeree company at the beginning of the period, and this clause does not apply to any purchase of voting securities in which there is a published market if that purchase is effected above the market price at the date of purchase plus reasonable brokerage fees or other commission; or
- (e) it is an offer to acquire voting securities of an issuer made by and accepted by a person or company each of whom is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 (1). 1978, c. 47, s. 88 (2); 1979, c. 86, s. 12 (1, 2).

(3) An issuer bid is exempted from the requirements of this Part where, Exempted  
issuer bid

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or the securities are acquired to meet sinking fund requirements or are acquired from an employee of the issuer or an employee of an affiliate;
- (b) the purchases, redemptions or other acquisitions are required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated or organized;
- (c) the issuer bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this Part according to the by-laws, regulations or policies of the stock exchange;



(d) following the publication of a notice of intention in the form and in the manner prescribed by the regulations, the issuer purchases securities of the issuer, but the aggregate number, or in the case of convertible debt securities, the aggregate principal amount, of securities purchased by the issuer in reliance on the exemption provided by this clause during any period of twelve consecutive months shall not exceed 5 per cent of the securities of the class sought outstanding at the commencement of the period; or

(e) the issuer bid is made by a private company. 1978, c. 47, s. 88 (3); 1979, c. 86, s. 12 (3).

Require-  
ments for  
take-over  
and issuer  
bids

**89.**—(1) The following provisions apply to every take-over bid and issuer bid:

1. The take-over bid or issuer bid shall be sent to all holders of the class of securities sought, and of securities convertible into, or carrying the right to purchase, securities of that class, whose last address on the records of the offeree company or issuer is in Ontario.
2. The period of time in which securities may be deposited pursuant to a take-over bid or an issuer bid shall not be less than twenty-one days from the date thereof.
3. Any securities deposited pursuant to a take-over bid or an issuer bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.
4. Any securities deposited pursuant to a take-over bid or an issuer bid may be withdrawn by an offeree at any time until the expiration of ten days from its date.
5. Notice of withdrawal of any securities pursuant to paragraph 4 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.
6. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an

offeror until the expiration of twenty-one days from its date.

7. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, the period of time within which securities may be deposited pursuant to the take-over bid or an issuer bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid or an issuer bid.
8. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant to the take-over bid or an issuer bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.
9. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.
10. Where the offeror making a take-over bid intends to purchase securities in the market his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the class of securities sought that are owned by offerees, the offeror shall not reduce the number of securities he is bound or willing to take up under paragraphs 8 and 9 by the number of securities purchased in the market, but those securities shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled.
11. In the case of a take-over bid, where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.

12. The offeror shall not attach any conditions to the offer except the right not to take up and pay for securities deposited if,

(a) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;

(b) any undisclosed action prior to the date of the offer or any action subsequent to such date, by a person or company other than the offeror, including a governmental or regulatory authority, and, in the case of a take-over bid, by the offeree company or its directors or senior officers, results in a material change in the affairs of the company; or

(c) the required approval of a governmental or regulatory authority is not obtained prior to the expiration of the offer.

13. Where the take-over bid or issuer bid is made for all of the class of securities sought that are owned by offerees, the offeror shall, at the expiration of thirty-five days from the date of the offer, take up and pay for the securities tendered at that time or abandon his offer.

14. Where the take-over bid is subject to the approval of a governmental or regulatory authority, the time within which the offeror is bound to take up and make payment for the securities under paragraphs 8 and 13 may be extended for a period not exceeding an additional ninety days. 1978, c. 47, s. 89 (1); 1979, c. 86, s. 13.

Sale by  
offeror  
prohibited

(2) The offeror shall not sell any of the class of the securities that are the subject of the take-over bid during the period of the take-over bid.

Offer  
increasing  
take-over  
bid or  
issuer bid

(3) Where, during the course of a take-over bid or an issuer bid, the offeror pays or agrees to pay a price for securities higher than the consideration offered through the take-over bid or issuer bid, the take-over bid or issuer bid shall be deemed to be varied by increasing the consideration to the higher price. 1978, c. 47, s. 89 (2, 3).

Notice of  
variation in  
take-over  
bid or  
issuer bid

**90.**—(1) Where a significant change has occurred in the information contained in a take-over bid circular or issuer bid circular while the offer is still outstanding or where a take-over bid or an issuer bid has been varied by changing any

of its terms, every person or company whose shares have not been taken up and paid for and who has been sent the take-over bid circular or issuer bid circular shall be sent notice of such change or variation and, except where a variation is solely an increase in price, the date of the take-over bid or issuer bid shall, for the purposes of section 89, be deemed to be the date of the sending of the notice of such change or variation. 1978, c. 47, s. 90 (1).

(2) For purposes of subsection (1), a change that is not within<sup>Idem</sup> the control of the offeror or of an affiliate of the offeror shall not be considered to be significant unless it is a material change affecting the affairs of the issuer of securities being offered in exchange for securities of the offeree company and, while an offer is outstanding, the exercise of a right contained in a take-over bid or an issuer bid to modify the terms of the offer or to waive a condition of the offer shall be considered to be a variation which changes the terms of the take-over bid or the issuer bid. 1979, c. 86, s. 14.

(3) A notice of variation shall advise the offeree of his rights<sup>Idem</sup> under paragraph 4 of subsection 89 (1).

(4) Where the terms of a take-over bid or an issuer bid<sup>Variation of terms of take-over bid or issuer bid</sup> are varied before the expiration thereof by increasing the consideration offered for the securities, the offeror shall pay such increased consideration to each offeree whose securities are taken up and paid for pursuant to the take-over bid or issuer bid, whether or not such securities have been taken up by the offeror before the variation of the take-over bid or issuer bid. 1978, c. 47, s. 90 (2, 3).

**91.**—(1) Where a take-over bid is effected without com-<sup>Follow-up offers</sup>pliance with section 89 in reliance on the exemption in clause 88 (2) (c), if there is a published market in the class of securities acquired and the value of the consideration paid for any of the securities acquired exceeds the market price at the date of the relevant agreement plus reasonable brokerage fees or other commissions, the offeror shall within 180 days after the date of the first of the agreements comprising the take-over bid, offer to purchase all of the additional securities of the same class owned by security holders, the last registered address of whom is in Ontario or in a uniform act province, at and for a consideration per security at least equal in value to the greatest consideration paid under any such agreements, and that offer shall be a take-over bid for purposes of this Part.

(2) Where a take-over bid, including a take-over bid exempted<sup>True target companies</sup> from the requirements of this Part under subsection 88 (2),



- (a) results in the acquisition by the offeror of the power or authority to control the business or affairs of the offeree company and, in consequence thereof, the offeror acquires the indirect power or authority to control the business or affairs of another company that is not a private company, herein called the "true target company"; and
- (b) forms, to the knowledge of the offeror, part of a series of transactions initiated by a present or former holder of securities of the true target company who formerly had the power or authority to control the business or affairs of the true target company, the principal purpose of which was to permit the indirect sale of some or all of his securities of the true target company in a manner that would avoid the application of subsection (1),

the take-over bid shall, for the purposes of subsection (1), be deemed to constitute a take-over bid for securities of the true target company effected without compliance with section 89 in reliance on the exemption in clause 88 (2) (c), at a consideration per security equal to the value per security of the true target company received directly or indirectly by the security holder as a consequence of the series of transactions initiated by him.

Premium  
prohibited

(3) Subject to any decision of the Commission under section 99, where a take-over bid or an issuer bid is made, all holders of the same class of securities shall be offered the same consideration and no collateral agreement with any such holders shall have the effect, directly or indirectly, of offering such holders a consideration of greater value for their securities than that offered to the other holders of the same class of securities. 1978, c. 47, s. 91.

Sending  
by mail

**92.** A take-over bid, a varied take-over bid, an issuer bid or a varied issuer bid shall be communicated to each offeree by prepaid mail, by personal delivery or in such other manner as the Director may approve and shall be deemed conclusively to have been dated as of the date on which it was mailed, delivered or otherwise communicated. 1978, c. 47, s. 92.

Consideration  
in cash

**93.** Where a take-over bid or an issuer bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. 1978, c. 47, s. 93.

**94.**—(1) A take-over bid circular shall form part of or <sup>Take-over bid circular</sup> accompany a take-over bid.

(2) Every take-over bid circular shall be in the form <sup>Content</sup> and shall contain the information prescribed by this Part and the regulations.

(3) Where a take-over bid provides that the consideration <sup>Consideration in securities</sup> for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. 1978, c. 47, s. 94.

**95.**—(1) An issuer bid circular shall form part of or <sup>Issuer bid circular</sup> accompany an issuer bid.

(2) Every issuer bid circular shall be in the form and shall <sup>Contents</sup> contain the information prescribed by this Part and the regulations.

(3) Where an issuer bid provides that the consideration for <sup>Consideration in securities</sup> the securities is to be, in whole or in part, other securities of the issuer the issuer bid circular shall contain the additional information prescribed by the regulations. 1978, c. 47, s. 95.

**96.**—(1) The board of directors of an offeree company <sup>Directors' circular</sup> shall send a directors' circular to each offeree not later than ten days from the date of the take-over bid prepared in accordance with the regulations.

(2) The board of directors may include in a directors' <sup>Recommendation by board</sup> circular a recommendation to accept or to reject a take-over bid if it sees fit to do so.

(3) An individual director or officer may recommend <sup>Recommendation by individual director</sup> to the offerees acceptance or rejection of the take-over bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations.

(4) Where a board of directors is considering recom- <sup>Advising of consideration</sup> mending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and may advise them not to tender their securities until further communication is received from the directors.

(5) Where the board of directors sends a communication <sup>Advising of decision of directors</sup> under subsection (4), it shall communicate the recommendation

or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer.

Service

(6) All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company.

Circulation of  
recommendation of  
individual  
director

(7) Where an individual director or officer submits a recommendation prepared in accordance with subsection (3) to the board of directors prior to the board of directors sending the directors' circular required by subsection (1), or the further communication permitted by subsection (5), the board of directors shall send a copy of the recommendation of the individual director or officer to the offerees together with the circular or further communication. 1978, c. 47, s. 96.

Approval of  
circulars

**97.**—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer.

Idem

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

Idem

(3) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. 1978, c. 47, s. 97.

Idem

**98.** The issuer bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. 1978, c. 47, s. 98.

Applica-  
tions to the  
Commission

**99.** Upon an application by an interested person or company, the Commission may, subject to such terms and conditions as it may impose,

(a) decide that an offeror shall not be obligated to comply with subsection 91 (1) where the Commission finds that the offeror will not or did not acquire through the offer the power or authority to control the business or affairs of the offeree company;

(b) where the Commission is satisfied that the market price of securities of any class determined in accordance with the regulations, by reference to the price of such securities as established by trades on a

published market was affected by an anticipated take-over bid or by improper manipulation, determine the market price of such securities at any date, such determination to be based on a finding by the Commission as to the price at which a holder of securities of that class could reasonably have expected to dispose of his securities immediately prior to the relevant date excluding any change in price reasonably attributable to the anticipated take-over bid or to the improper manipulation;

- (c) decide for purposes of section 91 that a consideration proposed to be offered by an offeror is, or is not, at least equal in value to the greatest consideration paid under the relevant agreements;
- (d) decide for the purposes of section 91 that a collateral agreement or arrangement with a selling security holder is made for reasons other than to increase the value of the consideration paid to him for his securities and may be entered into notwithstanding that section;
- (e) exempt any person or company from any requirements of this Part where in its opinion it would not be prejudicial to the public interest to do so; and
- (f) change the time periods set out in sections 89 and 90 in their application to take-over bids or issuer bids that are subject to corresponding requirements, but with different time periods, imposed under applicable legislation of Canada or of a province or territory of Canada, and such change shall apply to take-over bids or issuer bids that satisfy the criteria set out in the order of the Commission making the change. 1978, c. 47, s. 99; 1979, c. 86, s. 15.

**100.** The identity of the offeror shall be disclosed in a take-over bid circular. 1978, c. 47, s. 100. Naming of  
offeror

## PART XX

### INSIDER TRADING AND SELF-DEALING

**101.**—(1) In this Part,

Inter-  
pretation

- (a) “mutual fund” means, except in section 107, a mutual fund that is a reporting issuer;
- (b) “related mutual funds” includes more than one mutual fund under common management;
- (c) “related person or company” in relation to a mutual fund means a person in whom, or a company



in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment.

Idem

(2) For the purpose of this Part,

- (a) any issuer in which a mutual fund holds in excess of 10 per cent of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those mutual funds;
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates; and
- (c) for the purpose of reporting under section 102 or 103, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent. 1978, c. 47, s. 101.

Report

**102.**—(1) A person or company who becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

Idem

(2) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which the change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations.

(3) A person or company who becomes an insider of a reporting issuer by reason of subsection 1 (8) or (9) shall file the reports required by subsections (1) and (2) of this section for the previous six months or such shorter period that he was a director or officer of the reporting issuer within ten days after the end of the month that the issuer became an insider of a reporting issuer or the reporting issuer became an insider of another reporting issuer as the case may be. 1978, c. 47, s. 102.

**103.**—(1) Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through a take-over bid or issuer bid exempted from the requirements of Part XIX by subsection 88 (2) or (3), such person or company shall file a report as of the day on which he acquired the ownership within three days of acquiring such 20 per cent ownership. <sup>Report of offeror</sup>

(2) A person or company who is the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent. <sup>Idem</sup>

(3) Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required. 1978, c. 47, s. 103. <sup>Idem</sup>

**104.** No insider of a reporting issuer shall transfer or cause to be transferred any securities of the reporting issuer into the name of an agent, nominee or custodian without delivering to the Commission a report of such transfer in accordance with the regulations except for a transfer for the purpose of giving collateral for a *bona fide* debt. 1978, c. 47, s. 104. <sup>Report of transfer by insider</sup>

**105.** Where voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows that they are beneficially owned by an insider and that the insider has failed to file a report of such ownership with the Commission as required by this Part, the person or company shall file a report in <sup>Report of transfer by insider</sup>

accordance with the regulations except where the transfer was for the purpose of giving collateral for a *bona fide* debt. 1978, c. 47, s. 105.

Interpre-  
tation

**106.** For the purposes of sections 107, 108, 109, 110 and 111,

- (a) "investment" means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;
- (b) a person or company or a group of persons or companies has a significant interest in an issuer, if,
  - (i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or
  - (ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the outstanding shares or units of the issuer;

- (c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

- (d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. 1978, c. 47, s. 106.

**107.**—(1) No mutual fund in Ontario shall knowingly make an investment by way of loan to, Loans of mutual funds in Ontario

- (a) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them;
- (b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

(2) No mutual fund in Ontario shall knowingly make an investment, Investments of mutual funds, etc.

- (a) in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company;
- (b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or
- (c) in an issuer in which,
- (i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or
- (ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest.



Divesting of  
prohibited  
loans and  
investments

(3) No mutual fund in Ontario or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that is an investment described in this section. 1978, c. 47, s. 107.

Indirect  
investment

**108.** No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 107 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 107 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. 1978, c. 47, s. 108.

Relieving  
orders

**109.** Upon an application of an interested person or company, the Commission may, where it is satisfied,

- (a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or
- (b) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that section 107 or 108 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. 1978, c. 47, s. 109.

Exception  
to s. 106 (d)

**110.** Notwithstanding clause 106 (d), a mutual fund is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies who own beneficially, directly or indirectly, or are deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company are by reason thereof deemed to own beneficially voting securities of the issuer. 1978, c. 47, s. 110.

Fees on  
investment

**111.—(1)** No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director.

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to the mutual fund. 1978, c. 47, s. 111. Relieving orders

**112.**—(1) Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Standard of care for management of mutual fund

(2) For the purposes of subsection (1), a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. 1978, c. 47, s. 112. Idem

**113.**—(1) Every management company shall file a report prepared in accordance with the regulations of, Filing by management companies

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;
- (b) every loan received by the mutual fund from, or made by the mutual fund to, any of its related persons or companies;
- (c) every purchase or sale effected by the mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and
- (d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

(2) The Commission may, upon the application of the management company of a mutual fund and where it is Relieving orders

of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to any transaction or class of transactions. 1978, c. 47, s. 113.

"responsible  
person"  
defined

**114.**—(1) In this section, "responsible person" means a portfolio manager and every individual who is a partner, director or officer of a portfolio manager together with every affiliate of a portfolio manager and every individual who is a director, officer or employee of such affiliate or who is an employee of the portfolio manager, if the affiliate or the individual participates in the formulation of, or has access prior to implementation to investment decisions made on behalf of or the advice given to the client of the portfolio manager.

Interest of  
manager in  
investment  
portfolio

(2) The portfolio manager shall not knowingly cause any investment portfolio managed by it to,

- (a) invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase;
- (b) purchase or sell the securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager; or
- (c) make a loan to a responsible person or an associate of a responsible person or the portfolio manager.

Exemption  
of portfolio  
managers on  
terms and  
conditions

(3) Where the Commission determines that a portfolio manager or a class of portfolio managers is subject to regulations, imposed by a self-regulatory organization, to substantially the same effect as the requirements set out in subsection (2), the Commission may, subject to such terms and conditions as the Commission may impose, exempt the portfolio manager or class of portfolio managers from the requirements of subsection (2). 1978, c. 47, s. 114.

Trades by  
mutual  
fund  
insiders

**115.** No person or company who has access to information concerning the investment program of a mutual fund or the investment portfolio managed for a client by a portfolio manager shall purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for a client by a portfolio manager include securities of that issuer and where the information is used by the person or company for his or its direct benefit or advantage. 1978, c. 47, s. 115.

**116.** The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. 1978, c. 47, s. 116.

Publication  
of summaries  
of reports

**117.**—(1) Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations.

Filing  
in other  
jurisdiction

(2) Subject to subsection (1), the Commission may,

Exemptions  
by order of  
Commission

(a) upon the application of an interested person or company,

(i) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or

(ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing; or

(b) of its own motion,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company, class of persons or companies or class of transactions from the requirements of this Part. 1978, c. 47, s. 117.

## PART XXI

### ENFORCEMENT

**118.**—(1) Every person or company who,

Offences,  
general

(a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;



- (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Defence

(2) No person or company is guilty of an offence under clause (1) (a) or (b) if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

Directors  
and  
officers

(3) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1978, c. 47, s. 118.

Consent of  
Minister

**119.** No proceedings under section 118 shall be instituted except with the consent or under the direction of the Minister. 1978, c. 47, s. 119.

Information  
containing  
more than  
one offence

**120.** An information in respect of any contravention of this Act may be for one or more offences, and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1978, c. 47, s. 120.

Execution of  
warrant  
issued in  
another  
province

**121.—**(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant

for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1978, c. 47, s. 121.

Prisoner  
in transit

**122.**—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court for an order,

Order for  
compliance

(a) directing the person or company to comply with the decision or provision or restraining the person or company from violating the decision or provision; and

(b) directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease violating the decision or provision,

and upon the application the judge may make such order, or such other order as he thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1978, c. 47, s. 122.

Appeal

Order  
to cease  
trading

**123.**—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order.

Idem

(2) The Commission may issue a cease trading order under subsection (1) notwithstanding the delivery of a report to it pursuant to subsection 74 (3).

Temporary  
order

(3) No order shall be made under subsection (1) or (2) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall not be for longer than fifteen days from the date of the making thereof, but the order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. 1978, c. 47, s. 123.

Commission's  
discretion to  
remove  
exemptions

**124.**—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 34, 71, 72 and 88 do not apply to the person or company named in the order.

Temporary  
order and  
hearing

(2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall not be for longer than fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

Notice

(3) Notice of a temporary order made under subsection (2) shall be given forthwith together with the notice of the hearing under subsection (2) to every person or company who in the opinion of the Commission is directly affected thereby. 1978, c. 47, s. 124.

Limitation  
period

**125.**—(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the

facts upon which the proceedings are based first came to the knowledge of the Commission. 1978, c. 47, s. 125.

## PART XXII

### CIVIL LIABILITY

**126.**—(1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby during the period of distribution or distribution to the public shall be deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against,

Liability  
for misrepresentation in  
prospectus

- (a) the issuer or a selling security holder on whose behalf the distribution is made;
- (b) each underwriter of the securities who is required to sign the certificate required by section 58;
- (c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;
- (d) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
- (e) every person or company who signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses (a) to (d),

or, where the purchaser purchased the security from a person or company referred to in clause (a) or (b) or from another underwriter of the securities, he may elect to exercise a right of rescission against such person, company or underwriter, in which case he shall have no right of action for damages against such person, company or underwriter.

(2) No person or company is liable under subsection (1) if <sup>Defence</sup> he proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) No person or company, other than the issuer or selling <sup>Idem</sup> security holder, is liable under subsection (1) if he proves,

- (a) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forth-



with gave reasonable general notice that it was so filed;

- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;
- (c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;
- (d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,
  - (i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the prospectus or the amendment to the prospectus fairly represented his report, opinion or statement, or
  - (ii) on becoming aware that such part of the prospectus or the amendment to the prospectus did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus; or

- (e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document, and he had reasonable grounds to believe and did believe that the statement was true.

(4) No person or company, other than the issuer or <sup>Idem</sup> selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he,

- (a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(5) No person or company, other than the issuer or <sup>Idem</sup> selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he,

- (a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(6) No underwriter is liable for more than the total public offering price represented by the portion of the distribution <sup>Limitation re underwriters</sup> underwritten by him.

(7) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon. <sup>Limitation in action for damages</sup>

(8) All or any one or more of the persons or companies specified in subsection (1) are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from <sup>Joint and several liability</sup>

any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

Limitation  
re amount  
recoverable

(9) In no case shall the amount recoverable under this section exceed the price at which the securities were offered to the public.

No  
derogation  
of rights

(10) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. 1978, c. 47, s. 126.

Liability  
for misrep-  
resentation  
in circular

**127.**—(1) Where a take-over bid circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular was signed was a director of the offeror;
- (b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
- (c) each person who signed a certificate in the circular other than the persons included in clause (a).

Idem

(2) Where a directors' circular or a director's or officer's circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular.

Idem

(3) The provisions of subsection (1) apply with necessary modifications where an issuer bid circular contains a misrepresentation.

Defence

(4) No person or company is liable under subsection (1), (2) or (3) if he proves that the offeree had knowledge of the misrepresentation.

Idem

(5) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) if he proves,

- (a) that the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, was sent without his knowledge or consent and that, on becoming aware of it, he forthwith gave reasonable general notice that it was so sent;
- (b) that, after the sending of the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, he withdrew his consent thereto and gave reasonable general notice of the withdrawal and the reason therefor;
- (c) that, with respect to any part of the circular purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;
- (d) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert, but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,
  - (i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the circular fairly represented his report, opinion or statement as an expert, or
  - (ii) on becoming aware that such part of the circular did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular; or
- (e) that, with respect to a false statement purporting to be a statement made by an official person or



contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document and he had reasonable grounds to believe and did believe that the statement was true.

Idem

(6) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

Idem

(7) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

Joint and  
several  
liability

(8) All or any one or more of the persons or companies specified in subsection (1), (2) or (3) are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

Limitation  
of damages

(9) In an action for damages pursuant to subsection (1), (2) or (3) based on a misrepresentation affecting a security offered by the offeror company in exchange for securities of the offeree company, the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(10) Where the offeror,

(a) in a take-over bid exempted from the provisions of Part XIX by clause 88 (2) (a); or

Deemed  
take-over  
bid  
circular or  
issuer bid  
circular

(b) in an issuer bid exempted from the provisions of Part XIX by clause 88 (3) (c),

is required by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made to file with it or to deliver to offerees a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, sent to the offerees as required by Part XIX.

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. 1978, c. 47, s. 127.

No  
derogation  
of rights

**128.** In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of sections 126 and 127, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case. 1978, c. 47, s. 128.

Standard of  
reason-  
ableness

**129.** An offeror who,

(a) does not make the offer to purchase required to be made by subsection 91 (1) at a consideration having a value at least equal to that required thereby; or

Liability for  
failure to  
make  
follow-up  
offer or to  
take up  
securities

(b) does not take up securities duly deposited under the offer referred to in clause (a),

is liable to pay to the security holders entitled to receive the offer to purchase, or whose duly deposited securities were not taken up, a consideration per security equal in value to the minimum consideration at which the offer is required by that subsection to be made, or to the excess thereof over the value of the consideration actually offered, together with damages, if any. 1978, c. 47, s. 129.

**130.** A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 70 (1) or an offeree to whom a take-over bid circular or issuer bid circular was required

Liability of  
dealer or  
offeror

to be communicated but was not communicated in compliance with section 92 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement. 1978, c. 47, s. 130.

Liability of person or company in special relationship with a reporting issuer where material fact or change undisclosed

**131.**—(1) Every person or company in a special relationship with a reporting issuer who sells the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with a reporting issuer who, directly or indirectly, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter sells securities of the reporting issuer is liable to compensate the purchaser of the securities for damages as a result of the trade unless,

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the purchaser; or
- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling the securities or in communicating knowledge of the material fact or material change, as the case may be.

Idem

(2) Every person or company in a special relationship with a reporting issuer who purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with the reporting issuer who, directly or indirectly, and, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter purchases securities of the reporting issuer is liable to compensate the vendor of the securities for damages as a result of the trade unless,

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the vendor; or

- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be. 1979, c. 86, s. 16 (1).

(3) Any person or company who has access to information concerning the investment program of a mutual fund in Ontario or the investment portfolio managed for a client by a portfolio manager or by a registered dealer acting as a portfolio manager and uses that information for his or its direct benefit or advantage to purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for the client by the portfolio manager or registered dealer include securities of that issuer is accountable to the mutual fund or the client of the portfolio manager or registered dealer, as the case may be, for any benefit or advantage received or receivable as a result of such purchase or sale. 1978, c. 47, s. 131 (3).

(4) Every person or company in a special relationship with a reporting issuer who is an insider or an associate or affiliate of the reporting issuer and who, Accountability for gain

- (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or
- (b) directly or indirectly communicates, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed to another person or company who thereafter sells or purchases securities of the reporting issuer,

is accountable to the reporting issuer for any benefit or advantage received or receivable by him or it as a result of the purchase, sale or communication, as the case may be, unless,

- (c) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (d) the material fact or material change was known or ought reasonably to have been known to the purchaser or vendor of the securities, as the case may be;



- (e) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling or purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be.

Liability,  
joint and  
several

(5) Where more than one person or company in a special relationship with a reporting issuer is liable under subsection (1) or (2) as to the same transaction or series of transactions, their liability is joint and several. 1979, c. 86, s. 16 (2).

Measure of  
damages

(6) In assessing damages under subsection (1) or (2), the court shall consider,

- (a) if the plaintiff is a purchaser, the price that he paid for the security less the average market price of the security in the twenty trading days following general disclosure of the material fact or material change; or
- (b) if the plaintiff is a vendor, the average market price of the security in the twenty trading days following general disclosure of the material fact or material change less the price that he received for the security,

but the court may instead consider such other measures of damages as may be relevant in the circumstances.

Interpre-  
tation

(7) For the purposes of this section, a person or company is in a special relationship with a reporting issuer where,

- (a) the person or company is an insider or an affiliate of the reporting issuer;
- (b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;
- (c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or
- (d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause (a), (b) or (c). 1978, c. 47, s. 131 (6, 7).

**132.**—(1) Upon application by the Commission or by any person or company who was at the time of a transaction referred to in subsection 131 (1) or (2) or is at the time of the application a security holder of the reporting issuer, a judge of the High Court may, if satisfied that,

Action by  
Commission  
on behalf  
of issuer

- (a) the Commission or the person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 131 (4); and
- (b) either,
  - (i) the reporting issuer has refused or failed to commence an action under section 131 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
  - (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 131,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 131 (4).

(2) Upon the application by the Commission or any person or company who was at the time of a transaction referred to in subsection 131 (3) or is at the time of the application a security holder of the mutual fund, a judge of the High Court may, if satisfied that,

Action by  
Commission  
on behalf  
of mutual  
fund

- (a) the Commission or the person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 131 (3); and
- (b) the mutual fund has either,
  - (i) refused or failed to commence an action under subsection 131 (3) within sixty days after receipt of a written request from the Commission or the person or company so to do, or
  - (ii) failed to prosecute diligently an action commenced by it under subsection 131 (3),

make an order, upon terms as to security for costs or otherwise as to the judge seems proper, requiring the Commission or authorizing the person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 131 (3).

Costs

(3) Where an action under subsection 131 (3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a board of directors of a reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by the board of directors in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

Action by  
Commission  
on behalf  
of security  
holder of the  
reporting  
issuer

(4) Where an action under subsection 131 (3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that,

- (d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and
- (e) the continuance of the action is *prima facie* in the best interests of the reporting issuer and the security holders thereof.

Idem

(5) Where an action under subsection 131 (3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by the Commission, the trial judge or a judge of the High Court shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

(6) In determining whether an action or its continuance is *prima facie* in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action. Idem

(7) Notice of every application under subsection (1) or (2) shall be given to the Commission, the reporting issuer, or the mutual fund, as the case may be, and each of them may appear and be heard thereon. Notice of application

(8) Every order made under subsection (1) or (2) requiring or authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action. Order to co-operate

(9) An appeal lies to the Divisional Court from any order made under this section. 1978, c. 47, s. 132. Appeal

**133.**—(1) If subsection 38 (1) applies to a contract and such subsection is not complied with, a person or company who has entered into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within sixty days of the date of the delivery of the security to or by the person or company, as the case may be, but, in the case of a purchase by the person or company, only if he is still the owner of the security purchased. Rescission of contract

(2) If clause 35 (1) (c) applies to a contract and a registered dealer has failed to comply with such subsection by not disclosing that he acted as principal, a person or company who has entered Idem



into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within seven days of the date of the delivery of the written confirmation of the contract.

**Service**

(3) For the purpose of subsection (2), a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail.

**Onus**

(4) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 35 or 38 is upon the registered dealer.

**Limitation  
period**

(5) No action respecting a rescission shall be commenced under this section after the expiration of a period of ninety days from the date of the mailing or delivering the notice under subsection (1) or (2). 1978, c. 47, s. 133.

**Rescission  
of purchase  
of mutual  
fund  
security**

**134.**—(1) Every purchaser of a security of a mutual fund in Ontario may, where the amount of the purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan but, subject to subsection (5), the amount the purchaser is entitled to recover on exercise of this right to rescind shall not exceed the net asset value of the securities purchased, at the time the right is exercised.

**Idem**

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection (1) for rescinding a purchase made under a contractual plan.

**Notice**

(3) The notice mentioned in subsection (1) shall be in writing, and may be given by prepaid mail, telegram or other means.

**Service**

(4) A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

**Reimburse-  
ment**

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect of the shares

or units of which the notice of exercise of the right of rescission was given. 1978, c. 47, s. 134.

**135.** Unless otherwise provided in this Act, no action shall be commenced to enforce a right created by this Part more than, Limitation periods

- (a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action, other than an action for rescission, the earlier of,
  - (i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or
  - (ii) three years after the date of the transaction that gave rise to the cause of action. 1978, c. 47, s. 135.

## PART XXIII

### GENERAL PROVISIONS

**136.** A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
- (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

Admissibility in evidence of certified statements

purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 47, s. 136.

**137.**—(1) Where this Act or the regulations require that material be filed, the filing shall be effected by depositing Filing and inspection of material

the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission.

*Idem*

(2) Notwithstanding subsection (1), the Commission may hold material or any class of material required to be filed by this Act in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. 1978, c. 47, s. 137.

Immunity of  
Commission  
and officers

**138.**—(1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity  
re intended  
compliance

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

Liability  
of Crown  
R.S.O. 1980,  
c. 393

(3) Subsection (1) does not, by reason of subsections 5 (2) and (3) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1978, c. 47, s. 138.

Regulations

**139.** The Lieutenant Governor in Council may make regulations,

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, including permitting the Director to make such allocations, and prescribing the form and content of and governing the use of prospectuses, preliminary prospectuses, *pro forma* prospectuses, summary statements and statements of material facts to be filed by, and

- financial conditions applicable to, persons and companies in accordance with their categories;
2. designating mutual funds or a class or classes thereof as private mutual funds;
  3. designating banking transactions for the purposes of subparagraph iv of paragraph 43 of subsection 1 (1);
  4. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;
  5. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
  6. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,
    - i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
    - ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
    - iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;
  7. regulating the listing and trading of securities and records relating thereto;
  8. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;
  9. governing the furnishing of information by a registrant or class of registrants to a person or company recognized by the Commission and governing the payment of fees with respect thereto;
  10. regulating the trading of securities other than on a stock exchange recognized by the Commission;
  11. governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of the security issuers and the audit requirements with respect thereto;



12. respecting fees payable by an issuer to a management company as consideration for investment advice, alone or together with administrative or management services, provided by the management company to the mutual fund;
13. respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;
14. designating any person or company or any class of persons or companies who shall not be required to obtain registration as an adviser;
15. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
16. prescribing the documents, certificates, reports, releases, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
17. prescribing the practice and procedure of investigations under sections 11 and 13;
18. prescribing the forms for use under this Act and the regulations;
19. prescribing trades or securities, in addition to the trades and securities referred to in section 34, in respect of which registration shall not be required;
20. prescribing trades or securities, referred to in section 34 in respect of which there shall cease to be exemption from registration;
21. prescribing trades or securities, in addition to the trades and securities referred to in sections 71 and 72, in respect of which section 52 does not apply;
22. prescribing trades or securities in respect of which sections 52 and 61 shall be applicable notwithstanding sections 71 and 72;

23. exempting any seller or class of sellers from the requirements of subclauses 71 (7) (b) (i) and (ii);
24. prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;
25. prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 4 of subsection 34 (1);
26. exempting any category of registered advisers from the provisions of section 39 or varying the provisions of section 39, as they apply to any category of registered advisers;
27. prescribing the information required or permitted to be distributed under subsection 64 (2);
28. respecting the matters referred to in clause 60 (2) (h), and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidity of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;
29. requiring any issuer or class of issuers to comply with Part XVII or any provision thereof;
30. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;
31. prescribing the form and content of the reports to be filed under Part XX;
32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XIX or Part XX;
33. prescribing the form and content of a take-over bid circular, issuer bid circular, directors' circular and a director's or officer's circular required by Part XIX;

34. prescribing a penalty for the early redemption of shares or units of a mutual fund;
35. prescribing the form and content of proxies, information circulars and reports required by Parts XVII and XVIII;
36. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. 1978, c. 47, s. 139; 1979, c. 86, s. 17.

Commission's  
discretion to  
revoke or  
vary its  
decision

**140.** The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking or varying any decisions made by it under this Act or the regulations. 1978, c. 47, s. 140.

Continuation  
of  
registration

**141.** Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before the 15th day of September, 1979, continues in the same manner as if made or issued under this Act. 1978, c. 47, s. 141.

## CHAPTER 467

### Seed Potatoes Act

#### 1. In this Act,

Interpre-  
tation

- (a) “container” means any bag, sack, crate, barrel or other receptacle in which potatoes may be placed, stored, shipped, offered for sale or sold;
- (b) “grower” means any person who grows potatoes;
- (c) “inspector” means an inspector appointed under this Act;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “regulations” means the regulations made under this Act;
- (f) “restricted area” means a seed potato restricted area constituted under the authority of this Act. R.S.O. 1970, c. 429, s. 1; 1978, c. 100, s. 22 (1).

**2.**—(1) Upon the receipt of a petition that, in the opinion of the clerk of the township, bears the signatures of more than 80 per cent of all growers in the area defined in the petition, the council shall pass a by-law constituting the whole or the part of the township described in the petition as a seed potato restricted area.

Petition  
and by-law

#### (2) The petition shall contain,

Petition,  
contents

- (a) a detailed description of the boundaries of the proposed restricted area;
- (b) the approximate acreage of potatoes grown in the preceding year in the proposed restricted area;
- (c) a list of the names and addresses of all growers in the proposed restricted area. R.S.O. 1970, c. 429, s. 2.

**3.** The clerk shall send a certified copy of a by-law passed under section 2 to the Ministry of Agriculture and Food within seven days after it is passed. 1978, c. 100, s. 22 (2).

Copy of  
by-law  
to be sent  
to Ministry



Inspectors

**4.** Where a by-law under this Act is passed, the council shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations. R.S.O. 1970, c. 429, s. 4.

Restricted  
area in  
territory  
without  
municipal  
organiza-  
tion

**5.—(1)** Upon receipt of a petition containing the information required by subsection 2 (2) that, in the opinion of the Minister, bears the signatures of more than 80 per cent of all growers in the area defined in the petition where such area is situated in territory without municipal organization, the Lieutenant Governor in Council may constitute the area described in the petition as a seed potato restricted area.

Inspectors  
in territory  
without  
municipal  
organiza-  
tion

**(2)** The Minister shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations and shall fix the remuneration to be paid to any such inspector. R.S.O. 1970, c. 429, s. 5.

Power to  
enter  
premises

**6.** In the performance of his duties under this Act and the regulations any inspector may at any time between sunrise and sunset enter any land, building or part of a dwelling house used for storing potatoes in the restricted area. R.S.O. 1970, c. 429, s. 6.

Seed to be  
planted

**7.** No grower shall plant within a restricted area any seed potatoes other than those prescribed in the regulations. R.S.O. 1970, c. 429, s. 7.

Moving  
into area

**8.** No person shall move or cause to be moved into a restricted area,

potatoes

(a) any kind or grade of potatoes without a permit from an inspector; or

containers

(b) any container that has been used as a container for potatoes or is infected with any potato disease. R.S.O. 1970, c. 429, s. 8.

New  
containers to  
be used

**9.** All potatoes moved out of a restricted area shall be in new containers. R.S.O. 1970, c. 429, s. 9.

Potatoes for  
industrial  
processing,  
etc.

**10.** Potatoes moved into a restricted area for industrial processing or for reshipment shall be stored in warehouses or other places of storage approved by an inspector as not being a possible source or means of spreading any potato disease. R.S.O. 1970, c. 429, s. 10.

Disinfecting  
containers,  
etc.

**11.** All places of storage, containers, and machinery used for potatoes in a restricted area shall be disinfected at least once each year, and any planting, harvesting or grading equip-

ment used for potatoes shall be disinfected before such equipment is moved from one farm to another within a restricted area. R.S.O. 1970, c. 429, s. 11.

**12.** Every inspector shall once each year during the growing season and may at any time inspect the potato fields in his jurisdiction. R.S.O. 1970, c. 429, s. 12. <sup>Inspection of fields</sup>

**13.** No person shall move or cause to be moved, from one farm to another within a restricted area, any potatoes infected with bacterial ring rot. R.S.O. 1970, c. 429, s. 13. <sup>Moving infected potatoes in area</sup>

**14.** Every person who contravenes any of the provisions of this Act or the regulations, or hinders or obstructs an inspector in the performance of his duties, is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$200. R.S.O. 1970, c. 429, s. 14. <sup>Offence</sup>

**15.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) prescribing the kinds and grades of potatoes that may be planted in a restricted area;
  - (b) defining classes of persons and exempting such classes from the Act and the regulations;
  - (c) prescribing the duties of inspectors;
  - (d) providing for the making of grants by the Minister out of such moneys as may be appropriated by the Legislature for the purpose of reimbursing any township for any expense it has incurred under this Act;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 429, s. 15.



## CHAPTER 468

### Settled Estates Act

**1.—(1)** In this Act,

Interpre-  
tation

- (a) “court” means the Supreme Court;
- (b) “income” includes rents and profits;
- (c) “land” includes incorporeal hereditaments and an undivided share in land;
- (d) “possession” includes receipt of income;
- (e) “settled estate” means land and all estates or interests in land that are the subject of a settlement;
- (f) “settlement” means a statute, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which land or any estate or interest in land stands limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively.

(2) All estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor or descending to the heir, or as upon an intestacy to the representative of a testator, shall be deemed to be estates coming to such settlor, heir or representative under or by virtue of the settlement.

Estates in  
remainder  
or reversion  
not disposed  
of by  
settlement

(3) In determining what are settled estates within the meaning of this Act the court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the settlement taking effect. R.S.O. 1970, c. 431, s. 1.

Determining  
what are  
settled  
estates

**2.—(1)** The court, if it considers it proper and consistent with a due regard for the interests of all persons entitled under the settlement, and subject to the provisions and restrictions of this Act, may authorize leases of any settled estate or of any rights or privileges over or affecting any settled estate, for any purpose whatsoever, the following conditions being observed:

Power to  
authorize  
leases of  
settled  
estates



When lease  
to take  
effect

1. Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the court shall direct, where the court is satisfied that it is beneficial to the inheritance to grant a lease.

Best rent  
to be  
reserved

2. On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or more often, and to be incident to the immediate reversion; but in the case of a mining lease, a repairing lease or a building lease a nominal rent or any smaller rent than the rent to be ultimately made payable may, if the court thinks fit so to direct, be made payable during all or any part of the first five years of the term of the lease.

Exception

Reservation  
of rent in  
leases of  
earth, coal,  
stone or  
mineral

3. Where any such lease is of any earth, coal, stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested, when and so long as the person for the time being entitled to the receipt of the rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work the earth, coal, stone, or mineral for his own benefit, one-fourth part of the rent, and in other cases three-fourth parts thereof, and in every such lease sufficient provision shall be made to ensure such application of that portion of the rent by the appointment of trustees or otherwise, as the court considers expedient.

Cutting  
timber

4. No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the court be necessary, nor shall it be made without impeachment of waste.

Form of  
lease

5. Every such lease shall be by deed, in duplicate, executed by the lessor and lessee, and shall be subject to the statutory right of re-entry for non-payment of rent contained in the *Landlord and Tenant Act*.

R.S.O. 1980,  
c. 232

Agreements  
for renewal

- (2) Any such lease may contain an agreement for the renewal or renewals thereof if the court thinks fit, and the court may determine the length of time for which the renewal or renewals, if any, may be made. R.S.O. 1970, c. 431, s. 2.

Special  
covenants

3. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants, conditions and stipulations as the court considers expedient with reference to the special circumstances of the demise. R.S.O. 1970, c. 431, s. 3.

4. The power to authorize leases conferred by this Act authorizes leases either of the whole or any part of the settled estate, and may be exercised from time to time. R.S.O. 1970, c. 431, s. 4.

Leases of  
parts of  
settled  
estates

5. A lease, whether granted in pursuance of this Act or otherwise, may be surrendered either for the purpose of obtaining a renewal of it or not, and the power to authorize leases conferred by this Act shall authorize a new lease of the whole or any part of the hereditaments comprised in any surrendered lease. R.S.O. 1970, c. 431, s. 5.

Surrender  
and  
renewal

6. The power to authorize leases conferred by this Act extends to authorize preliminary contracts to grant such leases, and any of the terms of such contracts may be varied in the leases. R.S.O. 1970, c. 431, s. 6.

Preliminary  
contracts

7. The power to authorize leases conferred by this Act may be exercised by the court either by approving of a particular lease or by ordering that the power of leasing in conformity with this Act shall be vested in trustees in the manner hereinafter mentioned. R.S.O. 1970, c. 431, s. 7.

Mode in  
which leases  
may be  
authorized

8. Where application is made to the court either to approve of a particular lease or to vest any power of leasing in trustees, the court shall require the applicant to produce such evidence as it considers sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. R.S.O. 1970, c. 431, s. 8.

What  
evidence to  
be produced  
on an  
application  
to authorize  
leases

9. Where a particular lease or contract for a lease has been approved by the court, the court shall direct what person shall execute the same as lessor, and the lease or contract executed by such person shall take effect in all respects as if he had been at the time of the execution thereof absolutely entitled to the whole estate or interest that is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1970, c. 431, s. 9.

Direction  
as to who  
shall be  
lessor

10. Where the court considers it expedient that any general power of leasing any settled estate conformable with this Act should be vested in trustees it may, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other person or persons, and the power, when exercised by such trustees, shall take effect in all respects as if the power so vested in them had been originally contained in the settlement, and so as to operate if necessary by way of revocation

When  
powers of  
leasing may  
be vested in  
trustees

and appointment of the use or otherwise as the court directs, and in every such case the court may impose any conditions as to consents or otherwise on the exercise of the power and may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time for the purpose of exercising the power of leasing. R.S.O. 1970, c. 431, s. 10.

Conditions  
that leases  
be settled  
by the  
court

**11.** In any order under this Act for vesting any power of leasing in any trustees or other person or persons no conditions shall be inserted requiring that the lease thereby authorized shall be submitted to or be settled by the court or be made conformable with a model lease, unless the person applying for the order desires to have any such condition inserted or it appears to the court that there is some special reason for the insertion of such a condition. R.S.O. 1970, c. 431, s. 11.

Striking  
out such  
conditions

**12.** In any order, whether under this Act or under any other Act, in which any such condition has been inserted, any person interested may apply to the court to alter the order by striking out the condition, and the court may alter the order accordingly, and the order so altered has the same validity as if it had originally been made in its altered state; but the court may decline to act under this provision in any case in which it appears to the court that for any special reason such a condition is necessary or expedient. R.S.O. 1970, c. 431, s. 12.

Powers of  
court:

**13.—(1)** The court, if it considers it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act, may,

to authorize  
mortgages  
for purpose  
of repairs,  
etc.

(a) from time to time authorize a mortgage of the whole or any part of any settled estate for the purpose of raising money to repair, rebuild or alter any existing building upon the estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any encumbrance thereon;

to authorize  
sales of  
settled  
estates and  
of timber

(b) from time to time authorize a sale of the whole or any part of any settled estate or of any easement, right or privilege, of any kind, over or in relation to the same, or of any timber not being ornamental timber growing on the settled estate;

to sanction  
proceedings  
for  
protection  
of estate

(c) sanction any action, defence, petition to the Legislature or other proceeding appearing to the court necessary for the protection of any settled estate, and order that all or any part of the costs and

expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate, or out of any money or investment representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investment, or out of any accumulations of rents, profits or income.

(2) Such mortgage shall be authorized where the court is of <sup>When mortgages</sup> the opinion that the interests of the estate or any part thereof <sup>authorized</sup> or of the persons entitled to the estate or any part thereof require, or will be substantially promoted by such mortgage.

(3) Every such sale shall be conducted and confirmed in <sup>How sales</sup> the same manner as by the rules and practice of the court <sup>conducted</sup> is required in the sale of land under an order of the court. R.S.O. 1970, c. 431, s. 13.

**14.** Where land is sold for building purposes, the court <sup>Rental as</sup> may allow the whole or any part of the consideration to be <sup>considera-</sup> a rent issuing out of the land, which may be secured and <sup>tion for</sup> settled in such manner as the court approves. R.S.O. 1970, <sup>land sold</sup> c. 431, s. 14. <sup>for building</sup>

**15.** On any sale of land, any earth, coal, stone or mineral <sup>What may</sup> may be excepted and any rights or privileges may be reserved, <sup>be reserved</sup> and the purchaser may be required to enter into any covenants or submit to any restrictions that the court considers advisable. R.S.O. 1970, c. 431, s. 15.

**16.**—(1) The court, if it considers it proper and consistent <sup>Dedications</sup> with a due regard for the interests of all persons entitled <sup>for streets,</sup> under the settlement and subject to the provisions and <sup>etc.</sup> restrictions of this Act, may from time to time direct that any part of any settled estate be laid out for streets, roads, paths, squares, gardens, or other open spaces, or for sewers, drains or watercourses, either to be dedicated to the public or not, and may direct that the parts so laid out shall, subject to this Act, remain vested in the trustees of the settlement or be conveyed to or vested in any other trustees upon such trusts for securing the continued appropriation thereof to such purposes in all respects and with such provisions for the appointment of new trustees when required as the court considers advisable.



How provision made for laying out streets, etc.

(2) Where any part of any settled estate is directed to be laid out for such purposes the court may direct that open spaces, sewers, drains or watercourses, including all necessary and proper fences, pavings, connections and other works incidental thereto, be made and executed, and that all or any part of the expenses in relation to such laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate or any part thereof, or out of any money or investments representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investments, or out of any accumulations of rents, profits or income, and the court may also give such directions as it considers advisable for any repair or maintenance of any such streets, roads, paths, squares, gardens or other open spaces, sewers, drains or watercourses or other works out of any such rents, profits, income or accumulations during such period as the court considers advisable.

Restrictions

R.S.O. 1980,  
cc. 445, 230,  
302, 379

(3) The powers hereby granted shall be exercised subject to the *Registry Act*, the *Land Titles Act*, the *Municipal Act*, the *Planning Act* and any other Act dealing with the subdivision of land and the registration of plans. R.S.O. 1970, c. 431, s. 16.

Directions as to execution of deeds

**17.** On every sale, mortgage or dedication made under the authority of this Act, the court may direct what person shall execute the deed of conveyance or mortgage, and the deed or mortgage executed by such person shall take effect as if the settlement had contained a power enabling such person to effect the sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1970, c. 431, s. 17.

Who may apply for exercise of powers

**18.—(1)** Any of the persons authorized by section 32 to make a demise of a settled estate, and any person entitled to the possession or to the receipt of the rents and profits of a settled estate for any greater estate than the estate mentioned in that section and the assigns of any such person may apply to the court to exercise the powers conferred by this Act.

Where jointly entitled

(2) Where two or more persons are entitled as tenants in common, joint tenants or coparceners, any or either of them may make the application. R.S.O. 1970, c. 431, s. 18.

**19.**—(1) Subject to the provisions of this section, every application to the court under this Act shall be made with the concurrence or consent of all those in existence having any estate or beneficial interest under the settlement and of all trustees having any estate or interest on behalf of any unborn child. Consent to application

(2) Where the concurrence or consent of any person mentioned in subsection (1) has not been obtained, notice shall be given to such person in such manner as the court directs, requiring him to notify within a time to be specified in the notice whether he assents to or dissents from the application or submits his rights or interests, or so far as they may be affected by the application, to be dealt with by the court, and every notice shall specify to whom and in what manner the notification is to be delivered or left. Notice to persons who do not consent or concur

(3) If no notification is delivered or left in accordance with the notice and within the time thereby limited, the person to or for whom the notice has been given or left shall be deemed to have submitted his rights and interests to be dealt with by the court. Effect of non-reply

(4) Where the concurrence or consent of any such person has not been obtained, and if such person cannot be found or if it is uncertain whether he is living or dead, or if it appears to the court that the notice cannot be given to him without expense disproportionate to the value of the subject-matter of the application, the court if it thinks fit, either on the ground of the rights or interests of such person being small or remote or being similar to the rights or interests of any other person or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the court. When court may dispense with notice

(5) An order may be made notwithstanding that the concurrence or consent of any such person has not been obtained or has been refused, but the court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the court, and to the estates or interests that such persons respectively have or claim to have in the estate, and every order made upon such application has the same effect as if all such persons had been consenting parties thereto. When court may dispense with consent

(6) The court may give effect to any application subject to and so as not to affect the rights, estate or interest of any person whose concurrence or consent has been refused, or Order saving rights of non-consenting parties

who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the court, or whose rights, estate or interest ought in the opinion of the court to be excepted. R.S.O. 1970, c. 431, s. 19.

Notice to trustees, etc.

**20.** Notice of any application under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent to or concurrence in the application is hereby required, and on any other persons who in the opinion of the court ought to be so served, unless the court dispenses with such notice. R.S.O. 1970, c. 431, s. 20.

When notice of application to be given in the newspapers

**21.** Notice of any application, if the court so directs but not otherwise, shall be published in such newspapers as the court directs, and any person, whether interested in the estate or not, may be heard in opposition to or in support of the application, and the court may permit such person to appear and be heard in opposition to or in support of the application on such terms as to costs or otherwise and in such manner as it thinks fit. R.S.O. 1970, c. 431, s. 21.

Where a similar application has been rejected by the Legislature

**22.** The court shall not grant an application where the applicant, or any person entitled, has previously applied to the Legislature for a private Act to effect the same or a similar object, and such application has been rejected on its merits, or reported against by the judges to whom the Bill was referred. R.S.O. 1970, c. 431, s. 22.

Application of money arising from sales, etc.

**23.** All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone or mineral may, if the court thinks fit, be paid to any trustees of whom it shall approve, otherwise the same shall be paid into court, and such money shall be applied as the court from time to time directs to one or more of the following purposes:

1. The payment of any costs that the court orders to be paid.
2. The discharge of any encumbrance affecting the land in respect of which the money was paid, or affecting any other land subject to the same uses or trusts.
3. The purchase of other land to be settled in the same manner as the land in respect of which the money was paid.
4. The payment of the expenses connected with any buildings, repairs, rebuilding, alterations or improvements authorized to be made upon the settled estate.

5. The payment to any person becoming absolutely entitled. R.S.O. 1970, c. 431, s. 23.

**24.** The application of the money, if the court so directs, may be made by the trustees to whom the court has authorized the money to be paid, without any application to the court, or upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1970, c. 431, s. 24.

Application of money in certain cases without application to court

**25.** Until the money can be so applied, the interest accruing thereon shall be paid as the court directs to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1970, c. 431, s. 25.

Payment of interest

**26.** Where any purchase money paid into court or to trustees under this Act has been paid in respect of a lease for a life or lives or years, or for a life or lives and years, or of any estate in land less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court may, on the petition of any person interested in the money, order that the interest that accrues thereon be paid in such manner as the court considers will give to the parties interested in the money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which the money has been paid, or as near thereto as may be. R.S.O. 1970, c. 431, s. 26.

Application of money in respect of leases or reversions

**27.—**(1) The court may exercise any of the powers conferred on it by this Act whether the court has already exercised any of such powers in respect of the same property or not, but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement.

Court may exercise powers repeatedly

(2) The circumstance that the settlement contains powers to effect similar purposes does not preclude the court from exercising any of the powers conferred by this Act if it thinks that the powers contained in the settlement ought to be extended. R.S.O. 1970, c. 431, s. 27.

Notwithstanding express powers

**28.** Nothing in this Act empowers the court to authorize any lease, mortgage, sale or other act beyond the extent to which, in the opinion of the court, the same might have been authorized in and by the settlement by the settlor. R.S.O. 1970, c. 431, s. 28.

Extent of powers



Validity  
of acts

**29.** After the completion of any lease, mortgage or sale, or other act under the authority of the court and purporting to be in pursuance of this Act, the same is not invalidated on the ground that the court was not empowered to authorize the same. R.S.O. 1970, c. 431, s. 29.

Orders of  
court  
conclusive

**30.**—(1) An order of the court under jurisdiction conferred by this Act is not, as against a lessee, mortgagee or purchaser, invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service, whether he had or had not notice of any such want.

Scope of  
section

(2) This section has effect with respect to any lease, mortgage, sale or other act under the authority of the court and purporting to be in pursuance of this Act, or to be in pursuance of any former Act, notwithstanding any exception in any former Act. R.S.O. 1970, c. 431, s. 30.

Costs

**31.** The court may order that any costs or expenses of any persons of and incident to any application under this Act shall be a charge on the land that is the subject of the application, or on any other land included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under this Act, and the court may also direct that the costs and expenses, to be taxed and paid as the court directs, shall be raised by a sale or mortgage of a sufficient part of such land or out of the rents or profits thereof. R.S.O. 1970, c. 431, s. 31.

Power to  
make leases  
for 21 years

**32.**—(1) The following persons, unless the settlement contains an express declaration that it is not lawful for them to make the demise, may from time to time and without any application to the court, except as hereinafter mentioned, demise the settled estate or any part thereof for any term, not exceeding twenty-one years, to take effect in possession at or within one year next after the making thereof:

1. A person entitled to the possession or to the receipt of the rents and profits of any settled estate, for an estate for life or for a term of years determinable with any life or lives or for any greater estate not holding merely under a lease at a rent.
2. A tenant in fee simple with an executory limitation, gift or disposition over on failure of his issue or in any other event.
3. A tenant for years determinable on life not holding merely under a lease at a rent.

4. A tenant for the life of another not holding merely under a lease at a rent.
5. A tenant for his own or any other life or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate or by conditional limitation or otherwise, or to be defeated by an executory limitation, gift or disposition over, or is subject to a trust for accumulation of income for payment of debts or any other purpose.
6. A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life whether subject to expenses of management or not or until sale of the land or until forfeiture of his interest therein on bankruptcy or other event.

(2) The powers conferred by subsection (1) may be exercised by a person entitled to the possession or to the receipt of the rents and profits of unsettled land as tenant by the curtesy or tenant in dower. <sup>Curtesy and dower</sup>

(3) Any of the persons empowered by subsections (1) and (2) to make a demise may also make, <sup>Additional powers</sup>

- (a) a lease for giving effect to a contract entered into by any of his predecessors in title for making a lease that, if made by the predecessor, would have been binding on the successors in title; and
- (b) a lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled estate; and
- (c) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require.

(4) Where two or more persons are under the same settlement or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipts of the rents and profits as in subsection (1) mentioned, they shall, for the purposes of this section, act concurrently. <sup>Joint action</sup>

Form of  
lease

(5) Every demise made under this section shall be by deed in duplicate, and for the best rent that can reasonably be obtained, which rent shall be incident to the immediate reversion and shall be made payable half-yearly or oftener.

Conditions

(6) Such demise shall not be made without impeachment of waste and shall not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and shall contain a covenant for payment of the rent and such other usual and proper covenants as the lessor thinks fit, and shall be subject to the statutory right of re-entry for non-payment of rent in the *Landlord and Tenant Act*. R.S.O. 1970, c. 431, s. 32.

R.S.O. 1980  
c. 232

Against  
whom  
leases  
valid

**33.**—(1) Every demise of a settled estate authorized by section 32 is valid against the person granting the demise and all other persons entitled to estates subsequent to his estate under or by virtue of the same settlement.

Idem

(2) Every demise of unsettled land by a tenant by the curtesy or by a tenant in dower is valid against the person granting the demise and all other persons entitled to an estate subsequent to the estate of such tenant. R.S.O. 1970, c. 431, s. 33.

Provisions as  
to persons  
under  
disability

**34.** All powers given by this Act, and all applications to the court under this Act and consents to and notifications respecting them, may be executed, made or given by, and all notices under this Act may be given to committees on behalf of mentally incompetent persons, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents, and the Official Guardian or any other guardian *ad litem* may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf of any minor or person of unsound mind not so found; but in the case of minors or mentally incompetent persons, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* are subject to the approbation of the court. R.S.O. 1970, c. 431, s. 34.

Married  
women

**35.** A married woman may make or consent to or oppose any application whether she is or is not of full age. R.S.O. 1970, c. 431, s. 35.

No obligation to make  
or consent to  
application

**36.** Nothing in this Act imposes any obligation on any person to make or consent to any application to the court or to exercise any power. R.S.O. 1970, c. 431, s. 36.

**37.** A person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of an estate although his estate may be charged or encumbered, either by himself or by the settlor or otherwise, to any extent; but the estates or interests of the persons entitled to the charge or encumbrance are not affected by the acts of such persons unless they concur therein. R.S.O. 1970, c. 431, s. 37.

**38.** Nothing in this Act interferes with the exercise of any powers to authorize or grant leases conferred by any other statute. R.S.O. 1970, c. 431, s. 38.





## CHAPTER 469

## Settlers' Pulpwood Protection Act

## 1. In this Act,

Interpre-  
tation

(a) "company" means a company, partnership or individual operating in Ontario in connection with the purchasing, trading in or holding of pulpwood or pulpwood lands by contract, lease or otherwise, or manufacturing pulpwood, paper of any kind, or other products of pulpwood;

(b) "Minister" means the Minister of Natural Resources;

(c) "regulations" means the regulations made under this Act;

(d) "settler" means any *bona fide* settler occupying lands under the *Public Lands Act* or engaged in agricultural pursuits involving the clearing and cultivation of land. R.S.O. 1970, c. 432, s. 1; 1972, c. 4, s. 12.

R.S.O. 1980,  
c. 413

2.—(1) The Minister or any officer of the Ministry of Natural Resources upon the instructions of the Minister may investigate the prices received and the terms and conditions with respect to the sale, disposal or transfer of pulpwood cut on settlers' lands. R.S.O. 1970, c. 432, s. 2 (1); 1972, c. 4, s. 12.

Power to  
investigate

(2) The Minister may require any company or settler to furnish to him in writing and under oath such information relating to sale, transfer or purchase of pulpwood as the Minister may consider necessary for the purposes of this Act.

Furnishing  
of infor-  
mation

(3) Notice may be forwarded to the company or settler by registered mail, and such information as may be required under subsection (2) shall be furnished to the Minister within the time specified in the notice. R.S.O. 1970, c. 432, s. 2 (2, 3).

Service of  
notice

3. Upon the recommendation of the Minister, the Lieutenant Governor in Council may make regulations,

Regulations

(a) governing the sale and supply to any company of pulpwood cut by any settler, or of pulpwood cut from the lands of any settler;

- (b) fixing the kinds and quantities of pulpwood that may be purchased by any company within any stated period, having regard to the requirements of such company for such period;
  - (c) fixing the prices to be paid by any company to any settler for pulpwood cut on settlers' lands and controlling the method of measuring such pulpwood; and
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 432, s. 3.

## Offence

4.—(1) Every settler who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$100.

## Idem

(2) Every company that contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$1,000, provided that where any servant, agent or employee of a company contravenes any of the provisions of this Act or the regulations, such company is guilty of an offence and the provisions of this subsection apply accordingly. R.S.O. 1970, c. 432, s. 4.

## CHAPTER 470

### Sheriffs Act

1.—(1) The Lieutenant Governor in Council may, by a commission under the Great Seal, appoint a sheriff for each county and district, and may appoint such persons to the staff of the sheriff's office as are considered necessary and may fix their position specifications, salary ranges, and terms and conditions of employment. R.S.O. 1970, c. 434, s. 1 (1).

(2) The Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of the sheriff's office for a term not exceeding one year. R.S.O. 1970, c. 434, s. 1 (2); 1972, c. 1, s. 9 (7).

2.—(1) The Lieutenant Governor in Council may fix and determine the amount of the security to be furnished on behalf of every sheriff, but such amount shall not in any case be less than \$3,000.

(2) The security shall be furnished in accordance with the *Public Officers Act* and any order in council made under the authority thereof, and within one month after the appointment of the sheriff and before he is sworn into office.

(3) In case the security is not furnished within such period, or within such further period as the Lieutenant Governor in Council may prescribe, the Lieutenant Governor in Council may revoke the appointment of the sheriff, and his appointment and commission is void from and after the date of the revocation.

(4) The security is not affected nor is the surety released wholly or in part from the obligation assumed by reason of any change by legislative authority or otherwise in the boundaries of the county or district for which the sheriff was appointed, or by reason of any change in his duties.

(5) Any person may examine the security furnished on behalf of a sheriff and is entitled to take a copy thereof.

(6) Her Majesty, or any person sustaining damage by reason of the default or misconduct of a sheriff, in addition to any right of action against the sheriff, may bring and maintain an action against the surety alone, and the action is not barred by reason of a prior recovery by the same person upon



the same security or by reason of a judgment rendered for the defendant in a prior action upon the same security or by reason of any other action being then pending upon the security at the suit of the same plaintiff or any other person for any other distinct cause of action; except that if the plaintiff has recovered damages in an action against the sheriff for any such default or misconduct and the amount recovered or any part thereof has been paid to the plaintiff, no action lies against the surety for the same cause, except for any amount so recovered and remaining unpaid.

Judgment  
for balance  
of amount  
of security  
where  
surety has  
already been  
held liable

(7) If upon the trial of an action brought against a surety it appears that the plaintiff is entitled to recover, and that the amount that the surety has paid or has become liable to pay under a judgment recovered against him is not equal to the full amount of the security, the court, after deducting from the full amount the sum that the surety has paid or become liable to pay as aforesaid, shall render judgment against the surety for any sum not exceeding the balance of the sum for which he became surety.

Discharge  
of surety on  
payment of  
full amount

(8) If the surety has actually and in good faith paid out of his own money or effects, or has become liable by virtue of a judgment recovered upon the security to pay an amount equal to the amount specified therein the security shall be deemed to be discharged and satisfied, and no other or further sum shall be recovered thereunder.

Staying of  
further  
proceedings  
against  
surety

(9) The court in which an action on the security is pending, upon proof of such payment or liability, and at any stage of the action, may in a summary manner prevent the recovery against the surety of any further sum than that specified in the security.

Security to  
extend to  
acts, or  
omissions of  
deputy or  
sheriff  
*pro tempore*

(10). The security extends to the acts and omissions of the deputy of the sheriff, and, in case of a vacancy in the office of sheriff by death, resignation or otherwise, the security continues and is enforceable with respect to any act or omission of the deputy sheriff or of a sheriff *pro tempore* acting in pursuance of this Act or of any deputy sheriff appointed by such sheriff *pro tempore*, in pursuance of this Act. R.S.O. 1970, c. 434, s. 2.

Sheriff, etc.,  
not to trade

**3.** A sheriff or deputy shall not, directly or indirectly, keep a shop, or trade or traffic in goods, wares, or merchandise, either by wholesale or retail. R.S.O. 1970, c. 434, s. 3.

Sheriff, etc.,  
not to  
purchase at  
sales under  
execution

**4.** A sheriff, deputy sheriff, coroner, elisor, bailiff or constable shall not, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under legal process. R.S.O. 1970, c. 434, s. 4.

**5.** Every coroner, elisor, bailiff or constable entrusted with the execution of any writ, warrant or process who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the same may have issued, is guilty of an offence and on conviction is liable to a fine of not more than \$200 and to imprisonment for a term of not more than six months, and shall answer in damages to any person aggrieved by the misconduct or false return. R.S.O. 1970, c. 434, s. 5.

Misconduct  
of coroner,  
elisor,  
bailiff or  
constable

**6.** If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor is liable only to an action for the damages sustained by the person at whose suit the debtor was taken or imprisoned, and is not liable to any other action in consequence of his escape. R.S.O. 1970, c. 434, s. 6.

Liability of  
sheriff, etc.,  
for escape

**7.** A sheriff who wilfully makes any false return to any process directed to him and placed in his hands for execution, unless by consent of both parties to the same, is liable to forfeit his office. R.S.O. 1970, c. 434, s. 7.

Forfeiture of  
office for  
false return

**8.** Where an action is brought against a sheriff and a party thereto requires it to be tried by a jury, the trial shall take place in such county or district as the court or a judge may direct. R.S.O. 1970, c. 434, s. 8.

Actions  
against  
sheriffs

**9.** Upon the delivery of a writ of summons at the office of a sheriff, to be served by him, he or his deputy or clerk, shall endorse thereon the time when it was so delivered, and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff is entitled to receive it back, and the sheriff, deputy sheriff or clerk shall endorse thereon the time of the delivery back; and the cost of the mileage and service of the writ by a literate person afterwards, if the person to be served was at any time during the ten days within the county or district, shall be allowed in the taxation of costs, as if the service had been by the sheriff or his officer. R.S.O. 1970, c. 434, s. 9.

Endorsement  
of receipt of  
process; non-  
service;  
redelivery  
to plaintiff;  
costs of  
service

**10.** If the sheriff, being applied to, does not return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *praecipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the sheriff by the plaintiff. R.S.O. 1970, c. 434, s. 10.

Failure by  
sheriff to  
redeliver

**11.—(1)** Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a sheriff, the

Certificate  
as to  
executions

sheriff if so requested, shall include in one certificate any number of names not exceeding fifteen in respect of which the certificates may be required in the same matter or investigation.

Sheriff to  
include  
certificates  
under  
R.S.O. 1980,  
c. 103

(2) The sheriff shall, in such certificate, include all certificates of proof of claims under the *Creditors' Relief Act* that may be in his hands affecting lands.

Fees

(3) The maximum fees payable to a sheriff in respect of such certificate is \$6. R.S.O. 1970, c. 434, s. 11.

Office hours

**12.** Except on Saturdays and holidays when they shall be closed, every sheriff's office shall be kept open from 9.30 a.m. until 4.30 p.m. R.S.O. 1970, c. 434, s. 12.

Books to  
be kept

**13.** The sheriff shall keep in his office,

- (a) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution, received by him, the court out of which the process issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto;
- (b) execution books in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution received by him, the court out of which the writ issued, the date of the receipt, the nature of the writ, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto, or what was done thereunder or therewith;
- (c) a cash book in which shall be entered all moneys received or paid by the sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied or collected under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in, or on account of which the same was received or paid;

(d) a separate book in which shall be entered from day to day all fees and emoluments received by him by virtue of his office, and the several amounts disbursed by him in carrying on the work of his office;

(e) such other books as the Lieutenant Governor in Council may require. R.S.O. 1970, c. 434, s. 13.

**14.** The sheriff shall, on or before the 15th day of January in every year, make, to the Inspector of Legal Offices, a return under oath of the aggregate amount of the fees and emoluments received by him, and of his disbursements, during the previous year, up to and including the 31st day of December. R.S.O. 1970, c. 434, s. 14.

Return of fees to Inspector of Legal Offices

**15.** The sheriff shall, quarterly and within twenty days after the expiration of each quarterly period, transmit to the Inspector of Legal Offices a just, true and faithful account, verified upon oath, of all fines, penalties, and forfeitures that he has been required to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied, and he shall pay over to the proper officer or to the person lawfully entitled to receive the same the several sums collected by him, within twenty days next after the period within which the same have been collected. R.S.O. 1970, c. 434, s. 15.

Sheriff to make quarterly returns of fines, etc.

**16.** The sheriff shall give his attendance upon the judges for the maintenance of good order in Her Majesty's courts, and for the doing and executing of all other things that appertain to the office of sheriff in such case. R.S.O. 1970, c. 434, s. 16.

Duty of sheriff as regards sittings of courts

**17.** The sheriff has the appointment and control of the constables at the sittings of the High Court, the county court, the court of general sessions of the peace, and other courts at which the attendance of the sheriff is required. R.S.O. 1970, c. 434, s. 17.

Appointment of constables

**18.** Where a sheriff is directed by the court to perform any service or do any act for which no fee is provided, the sheriff may be allowed such fee as the court may think fit, and it shall be payable as the court may direct. R.S.O. 1970, c. 434, s. 18.

Fees of sheriff when acting under order of court

**19.** The sheriff may at the time of the delivery demand from any person delivering a process or attachment to him to be executed, the fees allowed to him by the tariff for receiving the writ or order and for warrant and return, and a reason-

Demanding fees on executions in advance



able sum for mileage and the fees and mileage so paid shall, if afterwards collected from the debtor, be repaid by the sheriff to the person who issued such process or attachment. R.S.O. 1970, c. 434, s. 19.

Actions  
for fees

**20.**—(1) After the expiration of one month from the service of his bill of costs, fees and expenses against a solicitor, the sheriff may serve the solicitor with a notice of an application to the Supreme Court or a judge thereof, or to a judge of a county or district court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice.

Proceedings  
on return  
of notice

(2) On the return of the notice, the court or judge may, without reference, direct the payment to the sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the court or judge may order the bill and the demand thereon to be taxed by the proper officer, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the court or judge making the reference shall restrain the bringing of any action pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any part thereof, in favour of either party, or may disallow any part thereof.

Execution  
for amount  
payable

(3) At the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, the party entitled to payment may sue out a writ of execution for the amount ordered or certified to be payable to him. R.S.O. 1970, c. 434, s. 20.

When deputy  
sheriff to act  
as sheriff

**21.**—(1) When the office of sheriff becomes vacant or the sheriff is unable to act, the deputy sheriff shall perform the duties of sheriff until a sheriff is appointed and sworn into office or until the sheriff is able to act, and the deputy sheriff is answerable for the execution of the office during such interval as the sheriff would by law have been if he had continued to be in office or to act, and the security given to the sheriff by the deputy sheriff and his pledges, as well as the security furnished on behalf of the sheriff, remains and is a security to Her Majesty and to all persons whomsoever for the performance by the deputy sheriff of the duties of the office during such interval.

(2) Where the office of sheriff becomes vacant and there is no deputy sheriff, the Crown attorney for the county or district, as the case may be, shall be the sheriff *pro tempore* until another person is appointed sheriff, and the Crown attorney on becoming sheriff *pro tempore* may appoint a deputy sheriff, and shall do and perform every other act, matter or thing necessary for the execution of the office.

Where there is no deputy sheriff

(3) During such interval the sheriff *pro tempore* is answerable for the execution of the office, as the sheriff would by law have been if he had continued to be in office or to act, and any security given by or furnished on behalf of the sheriff remains and is a security to Her Majesty, and to all persons whomsoever, for the performance of the duties of the office by the sheriff *pro tempore* and his deputy. R.S.O. 1970, c. 434, s. 21.

Temporary officer to be responsible

**22.** All books, accounts, records, papers, writs, warrants, process, moneys, and other matters and things in the possession or under the control of a sheriff by virtue of, or appertaining to his office, are the property of Her Majesty, and upon the death, resignation or removal from office of the sheriff they shall, by the person in whose possession or control they may happen to be or may come, be immediately handed over to and shall be taken possession of by the successor in office of the sheriff, or such person as the Lieutenant Governor in Council may appoint to receive them. R.S.O. 1970, c. 434, s. 22.

All books, etc., to be the property of the Government

**23.** No person, except the successor in office of the sheriff so dying, resigning or removed, or the person appointed by the Lieutenant Governor in Council as aforesaid, shall take, have or hold such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things, and any person having or holding any of them shall forthwith on demand deliver them over to the succeeding sheriff, or to the person appointed as aforesaid, and, upon default, is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$50, besides costs, for every day's default, and is also liable to imprisonment for a term of not more than three months, unless the fine and costs are sooner paid. R.S.O. 1970, c. 434, s. 23.

No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment

**24.** The books referred to in section 13 and all other books, records, processes and documents not pertaining solely to the administration of the staff and management of the office shall be retained by the sheriff for a period of at least twenty years after such books, records, processes and documents cease to be in current use and thereafter may be disposed of in the manner provided in section 3 of the *Archives Act*. R.S.O. 1970, c. 434, s. 24.

Disposal of records

R.S.O. 1980, c. 27

Proceedings  
on removal,  
etc., of  
sheriff

**25.**—(1) Upon the removal of a sheriff from office or upon his resignation and the appointment of his successor, the outgoing sheriff, or, in the event of the death of a sheriff, the deputy sheriff or sheriff *pro tempore* shall forthwith make out and deliver to the incoming sheriff a true and correct list and account, under his hand, of all writs and process in his hands not wholly executed by him, with all such particulars as are necessary to explain to the incoming sheriff the matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming sheriff all such writs and process, and all records, books and matters appertaining to the office of sheriff.

Duty of  
incoming  
sheriff

(2) The incoming sheriff shall thereupon sign and deliver a duplicate of the list and account to the outgoing sheriff, or to the deputy sheriff, or sheriff *pro tempore*, to whom the same is a good and sufficient discharge from the execution of the writs and process mentioned therein, without any writ of discharge or other writ whatsoever, and the incoming sheriff thereupon is fully and effectually charged with the execution and care of the writs and process mentioned in the list and account.

Penalty

(3) If the outgoing sheriff, or the deputy sheriff or the sheriff *pro tempore* refuses or neglects to make out, sign and deliver the list and account, and to hand over the writs and process in manner aforesaid, he is liable to any person aggrieved for the damages and costs sustained by such neglect or refusal. R.S.O. 1970, c. 434, s. 25.

Sheriffs re-  
signing, etc.,  
may examine  
and inspect  
books, etc.

**26.** A sheriff, after resigning or being removed or in case of the death of a sheriff, his heirs, executors, or administrators have, at all times, the right, free of charge, to have access to, and to search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things that were in his possession before his death, resignation or removal, and that, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding sheriff or the then sheriff of the county or district. R.S.O. 1970, c. 434, s. 26.

Conveyances  
in case of  
death, etc.,  
of sheriff  
who has  
sold lands

**27.** In case of the death, resignation or removal from office of a sheriff, or of a deputy sheriff while there is no sheriff, or of a sheriff *pro tempore*, after he has made a sale of lands, but before he has made the deed of conveyance of the lands to the purchaser, and whether the sale was under an execution or for arrears of taxes the deed of conveyance shall be made to the purchaser by the sheriff, or by the deputy sheriff who is in office acting as sheriff, or by the sheriff *pro tempore*, at the time when the deed of conveyance is made. R.S.O. 1970, c. 434, s. 27.

**28.** In case of the death, resignation or removal from office of a sheriff after action brought by him as sheriff, the action may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff in his official capacity enure. R.S.O. 1970, c. 434, s. 28.

Continuation  
of actions  
after death,  
etc., of  
sheriff





## CHAPTER 471

## Shoreline Property Assistance Act

## 1. In this Act,

Interpre-  
tation

- (a) "municipality" means a city, town, village or township;
- (b) "prescribed" means prescribed by the regulations made under this Act;
- (c) "works" means retaining walls, dykes, breakwaters, groynes, cribs and other structures designed for the rehabilitation or protection, or both, of property on the shores of lakes, rivers or other bodies of water that have been damaged or eroded by the elements, and includes repairs and improvements to existing works. 1973, c. 22, s. 1.

## PART I

## REHABILITATION AND PROTECTION LOANS

2.—(1) Subject to sections 64 and 65 of the *Ontario Municipal Board Act*, the council of a municipality may, without the assent of the electors, pass by-laws in the prescribed form authorizing the borrowing of money from the Treasurer of Ontario for the purpose of lending the money for the construction of works and the issuance of debentures in the prescribed form by the municipality or by a district, metropolitan or regional municipality on its behalf.

Borrowing  
powers of  
municipali-  
ties  
R.S.O. 1980,  
c. 347

(2) Forthwith after the passing of a by-law under subsection (1), the clerk of the municipality shall register a duplicate original or a copy of it, certified under his hand and the seal of the municipal corporation, in the land registry office for the registry division in which the municipality is situate or, if the municipality is partly within two or more registry divisions, in each of them.

Registration  
of by-law

(3) Every by-law registered in accordance with subsection (2), unless an application or action to quash the by-law is made or brought in a court of competent jurisdiction before the by-law is registered, is valid and binding according to its terms.

When by-law  
to be valid,  
where no  
application  
to quash

Offer to  
sell  
debentures  
to the  
Province

(4) Where no application or action to quash the by-law has been made or brought before the by-law is registered or, where an application or action has been made or brought and is dismissed, a certified copy of the by-law shall be deposited with the Treasurer of Ontario together with an affidavit of the clerk of the municipality in the prescribed form stating that no application or action to quash the by-law has been made or brought or, if an application or action has been made or brought, that it has been dismissed, and the debentures authorized by the by-law may thereafter be offered for sale to the Province of Ontario. 1973, c. 22, s. 2.

By-laws, etc.,  
declared  
valid  
1973, c. 22

(5) Every by-law passed or purporting to have been passed by the council of a municipality under subsection 2 (1) of *The Shoreline Property Assistance Act, 1973* before the 1st day of February, 1981 is hereby declared to be and to have always been valid and binding in accordance with the provisions thereof and every debenture purchased by the Treasurer of Ontario, every loan made by the municipality to an owner of land and every special rate levied on the land of an owner under that Act pursuant to the said by-law is hereby declared to be and to have always been valid and binding on the corporation of the municipality that passed the by-law and on the owner and the land to whom or in respect of which the loan was made. 1980, c. 52, s. 7 (1).

Application  
by owner for  
loan

**3.—**(1) An owner of land who is assessed as the owner thereof in the municipality or, where at any time after the return of the assessment roll and before the return of the assessment roll in the following year, the land is conveyed to some other person, such other person may make application to the council of the municipality in the prescribed form to borrow money for the purpose of constructing works on such land or, with the prior consent of the Crown, on Crown land immediately adjacent to such land.

Where works  
on Crown  
lands

(2) Where the money is borrowed to construct works on Crown lands, it shall be deemed to be borrowed in respect of the land of the owner who borrowed the money.

Statutory  
declaration  
of applicant

(3) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application, and that the land is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address.

(4) Where it appears that there is a mortgage or encumbrance upon the land or any part of it, the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered mail, sent to him by the clerk at his last known address.

Notice to  
encum-  
brancer

(5) If a mortgagee, encumbrancer or assignee notifies the clerk in writing within the time specified in subsection (4) that he objects to the granting of the application, the council shall afford him an opportunity to make representation to council.

Objections  
to  
application

(6) No person by reason of having borrowed money under this Act is disqualified from being elected as a member of council or from sitting or voting therein, but no member of council shall vote on any question affecting an application for a loan in which he has an interest.

Members of  
council not  
disqualified  
by loan

(7) The approval of any application under subsection (1) is in the discretion of the council whose decision is final and written notice of the decision shall forthwith be given to the applicant.

Discretion  
of council

(8) No loan for the construction of works shall exceed 90 per cent of the total cost of the works or a maximum amount prescribed by the regulations, whichever is the lesser.

Limitation  
on loans

4. The council of a municipality borrowing money under this Act shall employ a competent inspector to assess the need for the construction of works, the type of works proposed and the compatability of such works with adjacent property and to inspect the works, and he shall file with the clerk an inspection and completion certificate in the prescribed form, and the cost of such services by the inspector shall be charged against the works inspected and shall be paid out of the money borrowed and deducted from the amount loaned under section 7. 1973, c. 22, s. 4.

Appointment  
of inspector

5.—(1) After the receipt of the inspection and completion certificate, the council may issue a debenture payable to the Treasurer of Ontario with respect to the funds to be loaned by the municipality, and, in the case of a municipality within a district, metropolitan or regional municipality, the council may request the district, metropolitan or regional municipality to issue the debenture on its behalf.

Debentures  
may be  
issued after  
receipt of  
inspector's  
certificate

(2) A municipality, or a district, metropolitan or regional municipality on its behalf, shall not issue more than one

Municipality  
not to issue  
more than  
one  
debenture  
per month



debenture in any month, the amount of which may combine amounts to be loaned by the municipality under this Act.

Amount of  
debentures

(3) The amount of each debenture issued to the Treasurer of Ontario shall be in the sum of \$100 or any multiple thereof and shall not exceed the amount of the loan or loans with respect to which the debenture is issued.

Interest  
rates on  
debentures

(4) The interest rates applicable to debentures, both before and after maturity, issued under this Act shall be determined from time to time by the Lieutenant Governor in Council. 1973, c. 22, s. 5 (1-4).

Term of  
debentures

(5) The term of the debentures shall be for a period of twenty years and the debentures shall provide that the principal outstanding and interest thereon shall be payable in equal annual instalments of principal and interest as set out in the debenture, each due on the anniversary date of the debenture.

Prepayments

(6) The debentures shall provide that the municipality or district, metropolitan or regional municipality, as the case may be, may, at any time, with or without giving notice or at such times and on such notice and in accordance with such other terms and conditions as may be prescribed, pay the whole or any part of the amount of principal then outstanding on the debentures and shall not be liable thereafter to pay any interest on the amount so paid other than any interest accrued thereon to the date of such prepayment.

Instalments  
after partial  
prepayment

(7) The debentures shall provide that where the municipality or district, metropolitan or regional municipality, as the case may be, pays pursuant to subsection (6) part but not all of the amount of principal then outstanding, the equal annual instalment payable for the remainder of the term of the debenture shall be determined by the Treasurer of Ontario and set out in the schedule to the debenture. 1978, c. 10, s. 1.

Debentures  
issued  
before  
April 24,  
1978

(8) Debentures issued under *The Shoreline Property Assistance Act*, 1973 before the 24th day of April, 1978 shall be deemed to contain the provisions set out in subsections (6) and (7). 1978, c. 10, s. 2.

Date of  
debentures

(9) Each debenture shall be dated the first day of the month following the month in which it is delivered to the Treasurer of Ontario.

Offer to  
sell

(10) An application requesting the Treasurer of Ontario to purchase a debenture shall be by way of an offer to sell

in the prescribed form and shall accompany the debenture delivered to the Treasurer of Ontario. 1973, c. 22, s. 5 (7, 8).

**6.—**(1) The Treasurer of Ontario may purchase, acquire and hold debentures issued under the authority of this Act and pay therefor out of the Consolidated Revenue Fund. Purchase

(2) The aggregate principal amount of the outstanding debentures purchased by the Treasurer of Ontario under this Act shall not exceed \$50,000,000 at any time. 1973, c. 22, s. 6. Limitation on amount of debentures

**7.** The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof for a term of twenty years at a rate of interest equal to that set out in the debenture by which the funds are borrowed. 1973, c. 22, s. 7. Terms on which council shall lend money

**8.—**(1) The council shall impose by by-law in the prescribed form and, subject to section 11, shall levy and collect for the term of twenty years; over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge in twenty years the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of the *Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply. 1973, c. 22, s. 8. Collection of special rate  
R.S.O. 1980, c. 302

(2) Notwithstanding subsection 2 (5), the special rates imposed under section 8 or 13 of *The Shoreline Property Assistance Act, 1973* before the 1st day of February, 1981 on the lands described in the schedule hereto are hereby declared to be and to have always been invalid and do not constitute a charge or lien on the lands and that the moneys borrowed by the owner thereof under the provisions of the said Act are hereby deemed not to be or to have been a debt upon which special rates may have been or may be imposed, assessed or levied against such lands or any interest therein. Certain special rates invalid  
1973, s. 22

(3) Notwithstanding subsection (2), The Corporation of the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed from the Treasurer under *The Shoreline Property Assistance Act, 1973* before the 1st day of February, 1981 in respect of the lands described in the schedule hereto, together with interest thereon, in accordance with the debenture issued by the township for the borrowing of those moneys. 1980, c. 52, s. 7 (2, 3). Township of Malden

## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Malden, in the County of Essex and the Province of Ontario, more particularly described as follows:

FIRSTLY, all of Lots 6 and 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1103.

SECONDLY, all of Lot 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1502.

THIRDLY, all of Lot 14 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1193.

FOURTHLY, all of Lot 20 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1038.

1980, c. 52, s. 8.

Repayment  
by muni-  
cipality to  
Province

**9.**—(1) The annual payment on any debenture for principal and interest shall be remitted by the treasurer of the municipality or district, metropolitan or regional municipality to the Treasurer of Ontario on or before the due date.

Interest  
when  
default  
in payment

(2) In the event of default in any such payment, interest thereon shall accrue during the time of such default and the rate of such interest shall be determined from time to time by the Lieutenant Governor in Council. 1973, c. 22, s. 9.

Sale of  
part of  
land with  
respect to  
which money  
lent

**10.**—(1) Where a part of a parcel of land in respect of which money has been lent under this Act is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining.

Notice

(2) The clerk of the municipality shall give the owners of the parts into which the land is divided at least ten days notice in writing by registered mail of the time and place the council will make the apportionment.

Apportion-  
ment of  
rate

(3) The council in making the apportionment shall have regard to the effect of the works on each part into which the parcel of land is divided and such other matters as it considers appropriate, and the decision of the council with respect to the apportionment is final.

Filing of  
order of  
apportion-  
ment

(4) The order of apportionment shall be filed with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. 1973, c. 22, s. 10.

Discharge of  
indebtedness  
by owner

**11.** The owner of land in respect of which money has been borrowed under this Act may at any time obtain a discharge of the indebtedness by paying to the treasurer of

the municipality the amount outstanding together with accrued interest at the rate at which the funds were borrowed. 1974, c. 38, s. 2.

## PART II

### BUILDING REPAIR LOANS

**12.** In this Part, “building repairs” means repairs to a building or structure required by reason of damage to the building or structure caused by high water levels of or the impact of ice on a lake, river or other body of water or by damage to or erosion of the shore of a lake, river or other body of water caused by the elements. 1973, c. 22, s. 12.

Interpre-  
tation

**13.** Part I applies with necessary modifications to building repairs, but no loan for building repairs shall exceed 90 per cent of the total cost of the repairs or the maximum amount prescribed by the regulations, whichever is the lesser. 1973, c. 22, s. 13.

Loans for  
building  
repairs

## PART III

### GENERAL

**14.** The Lieutenant Governor in Council may make regulations for the purposes of this Act,

Regulations

- (a) prescribing forms and defining any word or expression not defined in this Act;
- (b) prescribing the maximum amount of loans for the construction of works and for building repairs;
- (c) prescribing the terms and conditions of prepayment for the purposes of subsection 5 (6);
- (d) determining the rate of interest for the purposes of subsection 5 (4) and subsection 9 (2). 1973, c. 22, s. 14; 1978, c. 10, s. 3.

## PART IV

### AMENDMENTS

**15.** This Part does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1980, c. 52, s. 9.

Amendments  
to be  
proclaimed



s. 3 (8),  
re-enacted

**16.** Subsection 3 (8) is repealed and the following substituted therefor:

Limitation  
on Loans

(8) No loan for the construction of works shall exceed the amount prescribed. 1980, c. 52, s. 1.

s. 5 (5),  
amended

**17.**—(1) Subsection 5 (5) is amended by striking out “a period of twenty years” in the first and second lines and inserting in lieu thereof “such period as is prescribed”. 1980, c. 52, s. 2 (1).

s. 5 (10),  
re-enacted

(2) Subsection 5 (10) is repealed and the following substituted therefor:

Offer  
to sell

(10) An application requesting the Treasurer of Ontario to purchase a debenture, which shall be by way of an offer to sell in the prescribed form, and a copy of the inspection and completion certificate mentioned in subsection (1) certified by the clerk with whom it was filed shall accompany the debenture delivered to the Treasurer of Ontario. 1980, c. 52, s. 2 (2).

s. 7,  
re-enacted

**18.** Section 7 is repealed and the following substituted therefor:

Terms on  
which council  
shall lend  
money

7. The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof at a rate of interest equal to that set out in the debenture by which the funds are borrowed and the term of the loan shall be the same number of years as the term of the debenture. 1980, c. 52, s. 3.

s. 8,  
re-enacted

**19.** Subsection 8 (1) is repealed and the following substituted therefor:

Collection  
of special  
rate

8.—(1) The council shall impose by by-law in the prescribed form and, subject to section 11, shall levy and collect for the term of the loan, over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge within the term of the loan the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of the *Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply.

R.S.O. 1980,  
c. 302

Registration  
of by-law

(1a) Where the council of a municipality passes a by-law under subsection (1) imposing special equal annual rates on land, the clerk of the municipality shall forthwith register a copy of the by-law in the proper land registry office. 1980, c. 52, s. 4.

s. 13,  
re-enacted

**20.** Section 13 is repealed and the following substituted therefor:

13. Part I applies with necessary modifications to building repairs, but no loan for building repairs shall exceed the amount prescribed. 1980, c. 52, s. 5. <sup>Loans for building repairs</sup>

**21.** Section 14 is amended by adding thereto the following <sup>s. 14,</sup>  
clause: <sup>amended</sup>

(e) prescribing the term of the debentures that may be issued under this Act. 1980, c. 52, s. 6.



## CHAPTER 472

## Short Forms of Conveyances Act

## 1. In this Act,

Interpre-  
tation

- (a) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1970, c. 435, s. 1.

2. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the deed has the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the deed but it is not necessary in any such deed to insert any such number. R.S.O. 1970, c. 435, s. 2.

Effect of  
deed made  
according to  
Schedule A  
and Col. 1 of  
Schedule B

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "grantor" or "grantee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may  
substitute  
names for  
"grantor" or  
"grantee"

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine  
for masculine  
or plural for  
singular

(3) Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may  
introduce  
exceptions or  
qualifications

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so

and may  
add names or  
designations



as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever, and in every such case the covenants 2, 3 and 4, or such of them as may be employed in the deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1970, c. 435, s. 3.

Effect of  
deeds falling  
to take effect  
under this  
Act

4. Any deed or part of a deed that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1970, c. 435, s. 4.

SCHEDULE A

FORM OF DEED

This Indenture made the.....day of....., one thousand nine hundred and ....., in pursuance of the *Short Forms of Conveyances Act*, between (*here insert names of parties and recitals, if any*), Witnesseth, that in consideration of..... now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*).....

(*Here insert covenants, or any other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1970, c. 435, Sched. A.

## SCHEDULE B

## COLUMN ONE

## COLUMN TWO

1. The said grantor covenants with the said grantee:

2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor.

3. And that the said grantee shall have quiet possession of the said lands.

4. Free from all encumbrances.

5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.

1. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:

2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said grantee, his heirs, executors, administrators, successors and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said grantor, or his heirs or successors, or any person claiming or to claim, by, from, under or in trust for him, them or any of them.

4. And that free and clear and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs or successors well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and encumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs or successors, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he the said grantor, his heirs, executors, administrators and successors, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or

## COLUMN ONE

## COLUMN TWO

intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, make, do, execute or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators, successors and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators, successors or assigns, his or their counsel in the law shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors, administrators or successors only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.

6. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that the said grantor and his heirs and successors shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators, successors and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, successors or assigns, or such person as he or they shall for that purpose direct and appoint.

## COLUMN ONE

7. And the said grantor covenants with the said grantee that he has done no act to encumber the said lands.

8. And the said grantor releases to the said grantee all his claims upon the said lands.

## COLUMN TWO

7. And the said grantor, for himself, his heirs, executors, administrators and successors doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is or shall or may be in anywise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

8. And the said grantor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said grantee, his heirs, executors, administrators, successors and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators, successors or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said lands and premises or any part thereof, in any manner howsoever, but the said grantee, his heirs, executors, administrators, successors and assigns, and the same lands and premises shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said grantor might or could have upon him in respect of the said lands, or upon the said lands.

R.S.O. 1970, c. 435, Sched. B.





## CHAPTER 473

## Short Forms of Leases Act

1. Where a lease under seal, made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the lease has the same effect as if it contained the form of words contained in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the lease; but it is not necessary in any such lease to insert any such number. R.S.O. 1970, c. 436, s. 1.

Effect of  
lease made  
according to  
Sched. A  
and Col. 1  
of Sched. B

2.—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the word “lessee” or “lessor” any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may  
substitute  
any name or  
designation

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine  
for masculine  
or plural for  
singular

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may  
introduce  
exceptions

(4) Where the premises demised are of freehold tenure the covenants 2 to 9 shall be taken to be made with and the proviso 12 to apply to the heirs and assigns of the lessor or the successors and assigns of the lessor, as the case may be, and where the premises demised are of leasehold tenure such covenants and proviso shall be taken to be made with and apply to the lessor, his executors, administrators, successors and assigns.

Application  
of covenants  
to heirs and  
assigns

(5) Where the word “lessor” occurs in the second column it includes, when the premises demised are of freehold tenure, the heirs, executors, administrators, successors and assigns of the lessor, and when the premises demised are of leasehold tenure

Interpre-  
tation

it includes the executors, administrators, successors and assigns of the lessor, and where the word “lessee” occurs in the second column it includes the executors, administrators, successors and assigns of the lessee. R.S.O. 1970, c. 436, s. 2.

Effect of  
leases failing  
to take effect  
under this  
Act

3. Any lease or part of a lease that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1970, c. 436, s. 3.

Covenants to  
run with  
land

4. Unless the contrary is expressly stated in the lease all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act run with the land demised, and bind the executors, administrators, successors and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B, when inserted in a lease, applies to a breach of either an affirmative or negative covenant. R.S.O. 1970, c. 436, s. 4.

SCHEDULE A

FORM OF LEASE

This Indenture, made the.....day of....., one thousand nine hundred and....., in pursuance of the *Short Forms of Leases Act*, between....., of the first part, and....., of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators, successors and assigns all that (*here insert a description of the premises with sufficient certainty*).

To have and to hold the said demised premises for and during the term of....., to be computed from the..... day of....., one thousand nine hundred and..... and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (*or their*) heirs, executors, administrators, successors or assigns, the sum of....., to be payable on the following days and times, that is to say (*on, etc.*), the first of such payments to become due and be made on the.....day of..... next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1970, c. 436, Sched. A.

## SCHEDULE B

## COLUMN ONE

## COLUMN TWO

1. The said lessee covenants with the said lessor:

2. To pay rent.

3. And to pay taxes, except for local improvements.

4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

5. And to keep up fences.

6. And not to cut down timber.

7. And that the said lessor may enter and view state of repair; and that the said lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

1. And the said lessee doth hereby covenant with the said lessor in the manner following, that is to say:

2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.

4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husbandlike manner and at proper seasons of the year.

6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees.

7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted.



## COLUMN ONE

8. And will not assign or sub-let without leave.

9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, that the lessee may remove his fixtures.

11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

## COLUMN TWO

8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.

9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall, at any time during the said term, be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time thereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything hereinafter contained to the contrary notwithstanding.

## COLUMN ONE

13. The said lessor covenants with the said lessee for quiet enjoyment.

## COLUMN TWO

13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1970, c. 436, Sched. B.



## CHAPTER 474

## Short Forms of Mortgages Act

## 1. In this Act,

Interpre-  
tation

- (a) "land" includes freehold or leasehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1970, c. 437, s. 1.

2.—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, the mortgage has the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the mortgage; but it is not necessary in any such mortgage to insert any such number.

Effect of  
mortgage  
made  
according to  
Sched. A  
and Col. 1  
of Sched. B

(2) Where a blank occurs in any of the forms in Column Two, the form shall be read as if it were filled in with the words that supply the place of the blank in the corresponding form in Column One. R.S.O. 1970, c. 437, s. 2.

Where blank  
occurs

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "mortgagor" or "mortgagee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding forms in the second column.

Parties may  
substitute  
names or  
designations

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine  
for masculine  
gender or  
plural for  
singular



and may introduce exceptions or qualifications

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1970, c. 437, s. 3.

Mortgages not taking effect under this Act, how far valid

4. Any such mortgage, or part of such mortgage that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1970, c. 437, s. 4.

Times to be governed by R.S.O. 1980, c. 296, s. 31

5. The period of time of default before which a mortgagee may serve notice of exercise of power of sale and the period of time after notice within which a sale may be provided for in the forms of words numbered 13 in Schedule B shall not be less than the respective times prescribed by section 31 of the *Mortgages Act*. R.S.O. 1970, c. 437, s. 5.

Transitional provision

1964, c. 110

6. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with Part III of the *Mortgages Act*, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. R.S.O. 1970, c. 437, s. 6.

## SCHEDULE A

### FORM OF MORTGAGE

This Indenture, made the.....day of....., one thousand nine hundred and....., in pursuance of the *Short Forms of Mortgages Act*, between (*here insert the names of parties and recitals, if any*). Witnesseth, that in consideration of ..... of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisos, covenants or other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1970, c. 437, Sched. A.

## SCHEDULE B

## COLUMN ONE

1. Provided this mortgage to be void on payment of of lawful money of Canada, with interest at per cent as follows: and taxes and performance of statute labour.

2. The said mortgagor covenants with the said mortgagee:

3. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.

4. That the mortgagor has a good title in fee simple to the said lands.

## COLUMN TWO

1. Provided always and there presents are upon this express condition that if the said mortgagor, his heirs, executors, administrators, successors or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns the just and full sum of (*amount of principal money*) of lawful money of Canada with interest thereon at the rate of (*rate of interest*) per cent per annum on the day and time and in the manner following, that is to say (*terms of payment of principal and interest*), without any deduction or abatement, and do and shall also pay any taxes, rates, levies, charges or assessments upon the said lands or in respect thereof no matter by whom or by what authority imposed which the said mortgagee, his executors, administrators, successors or assigns shall have paid or shall have been rendered liable to pay, and do and shall also pay all such other sums as the said mortgagee, his executors, administrators, successors or assigns may be entitled to by virtue of these presents, then these presents and everything in the same shall be absolutely null and void; but nothing in this proviso or these presents shall make the mortgagor, his heirs, executors, administrators, successors or assigns liable to pay to the mortgagee, his executors, administrators, successors or assigns any tax, rate or charge imposed upon the mortgagee, his heirs, executors, administrators, successors or assigns in respect of the income derived by him or them in respect of the mortgage money or in respect of the devolution of the interest of the said mortgagee in the said lands or mortgage money.

2. And the said mortgagor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:

3. That the said mortgagor, his heirs, executors, administrators and successors or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

4. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises

## COLUMN ONE

## COLUMN TWO

hereinbefore described, with their and every of their appurtenances and of and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisoes or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.

5. And that he has the right to convey the said lands to the said mortgagee.

5. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

6. And that on default the mortgagee shall have quiet possession of the said lands.

6. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators, successors or assigns or any other person or persons whomsoever.

7. Free from all encumbrances.

7. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.

8. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

8. And also, that from and after default shall happen, to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso,

## COLUMN ONE

## COLUMN TWO

then and in every such case the said mortgagor, his heirs, executors, administrators, successors and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, his heirs, executors, administrators, successors or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators, successors and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators, successors and assigns, as by the said mortgagee, his heirs, executors, administrators, successors or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

9. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

9. And also, that the said mortgagor, his heirs, executors, administrators, successors and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, successors or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators, successors and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators, successors and assigns true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators, successors and assigns.



## COLUMN ONE

10. And that the said mortgagor has done no act to encumber the said lands.

11. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than  
of lawful money of Canada.

12. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

## COLUMN TWO

10. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

11. And also that the said mortgagor or his heirs, executors, administrators, successors or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators, successors or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of ..... of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators, successors or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators, successors or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators, successors or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

12. And the said mortgagor hath released, remised and for every quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators, successors or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, adminis-

## COLUMN ONE

## COLUMN TWO

13. Provided  
that the said mort-  
gagee on default of  
payment for  
may on  
notice enter  
on and lease the  
said lands or on de-  
fault of payment  
for  
may on  
notice sell the said  
lands.

trators, successors and assigns, all and all manner of  
tenements, hereditaments and premises, subject as  
aforesaid, shall from henceforth forever hereafter  
be exonerated and discharged of and from all claims  
and demands whatsoever which the said mortgagor,  
his heirs, successors or assigns, might or could have  
upon the said mortgagee, his heirs, executors, ad-  
ministrators, successors or assigns, in respect of the  
said lands, tenements, hereditaments and premises,  
or upon the said lands, tenements, hereditaments and  
premises.

13. Provided always, and it is hereby declared and  
agreed by and between the parties to these presents,  
that if the said mortgagor, his heirs, executors,  
administrators, successors or assigns, shall make  
default in any payment of the said money or interest  
or any part of either of the same, according to the  
true intent and meaning of these presents, and of  
the proviso in that behalf hereinbefore contained  
and .....shall have thereafter  
elapsed without such payment being made (of which  
default, as also of the continuance of the said  
principal money and interest, or some part thereof,  
on this security, the production of these presents  
shall be conclusive evidence), it shall and may be  
lawful to and for the said mortgagee, his heirs,  
executors, administrators, successors or assigns,  
after giving written notice to the said mortgagor,  
his heirs, executors, administrators, successors or  
assigns, of his or their intention in that behalf,  
either personally or at his or their usual or last place  
of residence within this Province not less than  
.....previous, without any further con-  
sent or concurrence of the said mortgagor, his heirs,  
executors, administrators, successors or assigns, to  
enter into possession of the said lands, tenements,  
hereditaments and premises hereby conveyed, or  
mentioned or intended so to be, and to receive and  
take the rents, issues and profits thereof, and whether  
in or out of possession of the same, to make any lease  
or leases thereof, or of any part thereof as he or they  
shall think fit, and also on default as aforesaid and  
.....shall have thereafter elapsed and  
after giving written notice to the persons and in  
the manner and form prescribed by Part III of the  
*Mortgages Act*, not less than.....previous  
without any further consent or concurrence of the  
said mortgagor, his heirs, executors, administrators,  
successors or assigns to sell and absolutely dispose  
of the said lands, tenements, hereditaments and  
premises hereby conveyed or mentioned, or intended  
so to be, or any part or parts thereof, with the  
appurtenances, by public auction or private contract,  
or partly by public auction and partly by private  
contract, as to him or them shall seem meet, and to  
convey and assure the same when so sold unto the  
purchaser or purchasers thereof, his or their heirs,  
successors or assigns, or as he or they shall direct

## COLUMN ONE

## COLUMN TWO

and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators, successors or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, successors or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators, successors or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators, successors, or assigns, shall bear, sustain, or be put to for taxes, rents, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators, successors or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators, successors or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators, successors or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators, successors or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and encumbrance whatsoever by the said mortgagee, his heirs, executors, administrators, successors or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be com-

## COLUMN ONE

## COLUMN TWO

pelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators, successors or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators, successors and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisos and trusts incident thereto had not been herein contained.

14. Provided that the mortgagee may distrain for arrears of interest.

14. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators, successors or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

15. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

15. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators, successors or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the Supreme Court, relief therein could be obtained be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.



## COLUMN ONE

16. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

## COLUMN TWO

16. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor, his heirs, executors, administrators, successors and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators, successors or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1970, c. 437, Sched. B.

## CHAPTER 475

Small Business Development  
Corporations Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “associate”, where used to indicate a relationship with any person, means,
- (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,
  - (ii) any partner of that person or corporation,
  - (iii) any trust or estate in which such person or corporation has, in the opinion of the Minister, a substantial beneficial interest or as to which such person or corporation serves as trustee or in a similar capacity,
  - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
  - (v) any relative of such person or of his spouse, other than a relative referred to in subclause (iv), who has the same home as such person;
- (b) “corporation” means any body corporate whether or not it is a corporation to which the *Business Corporations Act* applies; R.S.O. 1980,  
c. 54
- (c) “debt obligation” means a mortgage, bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;
- (d) “eligible investment” means an investment in a small business that complies with section 9;
- (e) “equity capital” means the amount of consideration paid in money, calculated in the prescribed manner, for which equity shares are issued;

- (f) "equity share" means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (g) "Minister" means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;
- (h) "Ministry" means the Ministry of the Minister;
- (i) "person" means, except as otherwise expressly provided, an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative and includes a corporation;
- (j) "prescribed" means prescribed by the regulations;
- (k) "register" means the register under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "security" means any share of any class of shares or any debt obligation of a corporation;
- (n) "small business" means a corporation having not more than the prescribed number of employees;
- (o) "small business development corporation" means a corporation registered under this Act. 1979, c. 22, s. 1 (1); 1980, c. 21, s. 1.

Interpre-  
tation,  
subsidiary  
corporation

(2) A corporation shall be deemed to be a subsidiary of another corporation if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more corporations each of which is controlled by that other, or
  - (iii) two or more corporations each of which is controlled by that other; or
- (b) it is a subsidiary of a corporation that is that other's subsidiary.

(3) A corporation shall be deemed to be another's <sup>holding</sup> corporation if that other is its subsidiary.

(4) One corporation shall be deemed to be affiliated with <sup>affiliated</sup> another corporation if one of them is the subsidiary of the <sup>corporation</sup> other or both are subsidiaries of the same corporation or each of them is controlled by the same person.

(5) Unless otherwise prescribed, a corporation shall be <sup>Control</sup> deemed to be controlled by another person or corporation or by two or more corporations if,

(a) shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other corporations; and

(b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned corporation.

(6) In calculating the total number of equity shares of a <sup>Calculation of total number of equity shares</sup> corporation beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.

(7) In determining the number of shareholders of a <sup>Number of shareholders</sup> corporation, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder.

(8) For the purpose of determining whether or not a <sup>Determination of small business</sup> corporation is a small business, there shall be taken into account the number of employees of any affiliated corporation. 1979, c. 22, s. 1 (2-8).

#### REGISTER

**2.—**(1) The Minister shall maintain a register of small <sup>Register</sup> business development corporations in which he shall list all corporations registered under this Act and the register shall be open for public inspection during normal office hours.

(2) The Minister may delegate in writing any of his <sup>Delegation by Minister</sup> duties or powers under this Act to any public servant. 1979, c. 22, s. 2.



## REGISTRATION

Registration  
R.S.O. 1980,  
c. 54

3.—(1) A corporation incorporated under the *Business Corporations Act* may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of  
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the aggregate consideration exceeding which all shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

Articles of  
incorporation

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation.

Execution of  
proposal

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal. 1979, c. 22, s. 3.

Conditions of  
registration

4. No corporation shall be registered under this Act unless,

- (a) the corporation complies with all provisions of the *Business Corporations Act*;

- (b) the corporation has never previously carried on business;
- (c) its equity shares are without par value and may be issued for an aggregate consideration of not less than \$100,000 and not more than \$5,000,000;
- (d) the corporation has objects only to assist in the development of small businesses by,
  - (i) providing capital through the acquisition and holding of securities, and
  - (ii) providing business and managerial expertise to small businesses;
- (e) the corporation has equity capital of at least \$25,000; and
- (f) the corporation meets such other conditions as may be prescribed. 1979, c. 22, s. 4; 1980, c. 21, s. 2.

**5.—**(1) Subject to subsection (4), a corporation is entitled <sup>Registration</sup> to registration by the Minister except where,

- (a) the applicant fails to comply with section 3 or 4, as the case may be; or
- (b) the applicant fails to file the material required by this Act or the regulations.

(2) Subject to section 28, the Minister may refuse to register <sup>Refusal to register</sup> a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection (1) of this section.

(3) Subject to section 28, the Minister may revoke a regis- <sup>Revocation of registration</sup> tration where the registrant fails to comply with any provision of this Act or the regulations.

(4) Where the Minister is of the opinion that the number of corporations registered under this Act will be sufficient to take up the prescribed amount of money payable by way of grant under section 21 or foregone by way of tax credit under section 22, the Minister may, subject to the approval of the Lieutenant Governor in Council, by order, suspend the further registration of corporations, or the payment of grants and the allowance of tax credits under this Act for such period of time as is specified in the order. <sup>Minister may suspend further registrations or incentives</sup>

(5) No order under subsection (4) shall operate to prevent <sup>Saving</sup> the Minister from making a grant where the shares were fully

paid for and beneficially owned by the shareholder prior to the making of the order, or operate to prevent the carrying forward of a tax credit under section 23. 1979, c. 22, s. 5.

## Registration

**6.** If a corporation complies with sections 3 and 4, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the proposal the word "Registered" and the day, month and year of the registration thereof;
- (b) file one of the duplicates in his office;
- (c) place the name of the corporation in the register of small business development corporations; and
- (d) issue to the registrants a certificate of registration to which he shall affix the other duplicate. 1979, c. 22, s. 6.

Minimum  
capital and  
investment

**7.—**(1) Prior to the end of its first year of registration under this Act, a small business development corporation shall have equity capital of at least \$100,000 and at least 40 per cent of the amount of its equity capital shall be in eligible investments. 1979, c. 22, s. 7 (1); 1980, c. 21, s. 3 (1).

## Idem

(2) Prior to the end of its second year of registration under this Act, a small business development corporation shall have invested at least 70 per cent of its equity capital in eligible investments. 1979, c. 22, s. 7 (2).

## Idem

(3) During the third and subsequent years of registration under this Act, a small business development corporation shall maintain an average of at least 70 per cent of its equity capital in eligible investments calculated in the prescribed manner. 1980, c. 21, s. 3 (2).

Capital  
limits

(4) After the first year of its registration under this Act, a small business development corporation shall at all times maintain an equity capital of at least \$100,000 but not exceeding \$5,000,000. 1979, c. 22, s. 7 (4); 1980, c. 21, s. 3 (3).

Trust  
fund

**8.—**(1) A small business development corporation shall set aside in a trust fund an amount of money equal to 30 per cent of all amounts received by it as equity capital and such trust fund shall be held by the corporation, or by a trustee on behalf of the corporation, in trust for the corporation and for the Crown jointly to be dealt with in accordance with this section.

(2) Subject to subsection (3), while any amount is held in trust under subsection (1), the Minister shall permit payment from the fund of an amount equal to three-sevenths of the purchase price paid by the small business development corporation to acquire any eligible investment, provided that the Minister is satisfied that the purchase price of such eligible investment has been paid in full in money or that the amount permitted to be paid out by the Minister will be used by the corporation in payment of the purchase price of the eligible investment. <sup>Payment out of fund</sup>

(3) The money held in trust in accordance with subsection (1) shall not be paid out to any person or corporation unless the Minister has consented in writing to such payment. <sup>Idem</sup> 1979, c. 22, s. 8 (1-3).

(4) Subject to paragraph 4 of section 24, interest earned on the trust fund established in accordance with subsection (1) shall be paid to the small business development corporation. <sup>Interest</sup> 1979, c. 22, s. 8 (4); 1980, c. 21, s. 4.

(5) Where the registration of a small business development corporation is revoked, the amount then remaining in the trust fund established under subsection (1) is immediately payable to the Crown, and the receipt of the Minister therefor is a full and sufficient discharge to any trustee for such money or to any other person or corporation having control of the trust funds, for the payment over of such money to the Crown, and such payment is a full and complete discharge to the person or corporation making it and for any claim to such payment by any person or corporation that claims to be entitled to the funds. <sup>Payment out of fund</sup>

(6) Where any person or corporation fails to make the payment to the Crown required by subsection (5), such person or corporation is liable to the Crown for the amount that should have been paid under subsection (5). <sup>Idem</sup> 1979, c. 22, s. 8 (5, 6).

#### ELIGIBLE INVESTMENTS

9.—(1) An investment shall be an eligible investment if, <sup>Eligible investments</sup>

(a) the investment is made in a small business and 75 per cent or more of the wages and salaries of the small business are paid in respect of operations in Ontario;

(b) the investment is made in a small business primarily engaged in,

(i) prescribed manufacturing and processing, or



- (ii) prescribed tourist activities, or
  - (iii) any other prescribed business activity;
- (c) the investment is the purchase and acquisition from a small business by the small business development corporation of equity shares issued by the small business but, where the equity shares are issued as part of a transaction involving the purchase or redemption, directly or indirectly, of any previously issued equity shares of the small business or an affiliated corporation, the investment is an eligible investment only to the extent that the investment represents net new equity capital calculated in the manner prescribed;
- (d) the investment is not used by the small business for the purpose of,
  - (i) relending,
  - (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
  - (iii) reinvestment outside Canada;
- (e) the number of equity shares taken by the small business development corporation and any affiliated corporation in the small business in which the small business development corporation and the affiliated corporation invests does not at any time exceed 49 per cent, determined in accordance with subsection (2), of all issued and outstanding equity shares of such small business;
- (f) the investment is made in a small business in which,
  - (i) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the corporation, or
  - (ii) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total

number of issued and outstanding equity shares of the corporation; and

- (g) the investment is made in a small business that is not of a type prescribed by regulation. 1979, c. 22, s. 9 (1); 1980, c. 21, s. 5 (1).

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause (1) (e), there shall be included, Manner of determining percentage of equity shares

- (a) the number of equity shares into which any debt obligation or shares of such small business may be converted;
- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate or an affiliated corporation of the small business development corporation or any shareholder of it, or an associate or affiliated corporation of such shareholder. 1979, c. 22, s. 9 (2); 1980, c. 21, s. 5 (2).

**10.—(1)** A small business development corporation shall Investments maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) equity shares that were eligible investments at the time they were acquired by such small business development corporation;
- (d) debt obligations of any small business that is an eligible investment; or
- (e) such other form as may be prescribed.

(2) Assets of the corporation maintained in liquid reserves Liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*, or with the Province of Ontario Savings Office or in such other investments as may be prescribed, upon such terms and conditions and for such period as the corporation considers expedient. 1979, c. 22, s. 10. 1980-81 c. 40 (Can.) R.S.O. 1980, c. 249

Interpre-  
tation

**11.—(1)** In this section and in clause 9 (1) (f),

- (a) “corporation” includes an association, partnership or other organization;
- (b) “non-resident” means,
  - (i) an individual who is not a resident Canadian,
  - (ii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,
  - (iii) a corporation that is controlled directly or indirectly by non-residents as defined in subclause (i) or (ii),
  - (iv) a trust in which non-residents as defined in subclause (i), (ii) or (iii) have more than 50 per cent of the beneficial interest, or
  - (v) a corporation that is controlled directly or indirectly by a trust mentioned in subclause (iv);
- (c) “resident” means an individual, corporation or trust that is not a non-resident.

Idem

(2) For the purpose of clause 9 (1) (f), a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
  - (b) one shareholder is a partnership of which the other shareholder is a partner;
  - (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder;
  - (d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder;
  - (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
  - (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.
- 1979, c. 22, s. 11.

**12.—**(1) A small business development corporation shall not invest or maintain an investment in a small business if, Prohibited investments

(a) any of the shares of such small business are held by,

(i) a major shareholder or an affiliated corporation or an associate thereof of the small business development corporation,

(ii) an officer or director or an associate thereof of a small business development corporation or an officer or director or an associate thereof of a major shareholder of the small business development corporation, or

(iii) a voting trust where the trust relates to the shares of the small business development corporation; or

(b) such small business is a subsidiary, a holding corporation or affiliated corporation of the small business development corporation.

(2) Unless a small business development corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business by or through any shareholder of the small business development corporation or any associate or affiliated corporation of such shareholder. Restriction on investment

(3) For the purposes of this section,

Interpretation

(a) “major shareholder” means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the small business development corporation for the time being outstanding; and

(b) a small business development corporation is widely held if the corporation has ten or more shareholders, each holding not more than 10 per cent of the issued and outstanding equity shares of the corporation and none of the shareholders are associates or affiliated corporations. 1979, c. 22, s. 12.

**13.—**(1) In this section, a material change occurs if the investment of a small business development corporation ceases to be an eligible investment. Material change



- Notification (2) A small business development corporation shall notify the Minister in the prescribed form of any material change in any of its investments within thirty days of the occurrence thereof.
- Eligible investment (3) Where there is a material change, the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change. 1979, c. 22, s. 13.
- Where prescribed number of employees exceeded (4) Notwithstanding subsection (3), where a material change occurs by reason only of a small business exceeding the prescribed number of employees, no material change shall be deemed to have occurred until the small business has 200 or more employees, excluding directors and officers of the corporation.
- Eligible investment (5) Where a material change described in subsection (4) occurs the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of five years from the date of the material change. 1980, c. 21, s. 6.
- Restriction on disposition of equity shares **14.**—(1) No equity shares and no option or right to acquire equity shares of a small business or of a corporation that has ceased to be a small business or an eligible investment shall be transferred or granted by a small business development corporation without first granting to all other holders of the equity shares of such small business or corporation the right to acquire the whole or any part of such equity shares, option or right upon the same terms and conditions.
- Proviso (2) Only a holder of equity shares that is not a small business development corporation may exercise the right to acquire equity shares, options or rights under subsection (1). 1979, c. 22, s. 14.
- Application of R.S.O. 1980, c. 54 **15.** Notwithstanding the provisions of section 160 of the *Business Corporations Act*, every small business development corporation shall comply with the provisions of sections 161 and 162, subsections 163 (1) to (3), and section 164 and clause 165 (1)(c) and subsection 165 (3) of that Act in each year. 1979, c. 22, s. 15.
- Filing of financial statements **16.** Within six months of the date to which it is made up, a small business development corporation shall file with the Minister its financial statements and the auditor's report thereon. 1979, c. 22, s. 16.

## INFORMATION

**17.—**(1) Within ninety days after each anniversary of the <sup>Returns</sup> date of its registration, every small business development corporation shall prepare, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return.

(2) A small business development corporation shall notify <sup>Notice to</sup> the Minister in the prescribed form, of any action involving <sup>Minister</sup>

(a) the payment of any dividend on the equity shares of the corporation;

(b) the purchase, surrender, redemption or conversion of any equity share of the corporation;

(c) the disposition or sale of any eligible investment; or

(d) the winding up or dissolution of the corporation,

at least twenty-one days prior to carrying out the proposed action.

(3) The Minister may, in his discretion, enlarge the <sup>time</sup> <sup>Enlargement</sup> for filing any notice or return under this section. 1979, <sup>of time by</sup> <sup>Minister</sup> c. 22, s. 17.

**18.** The Minister may at any time by notice require <sup>Information</sup> any small business development corporation or any corporation in which the small business development corporation has <sup>required</sup> <sup>by the</sup> <sup>Minister</sup> invested to file within the time specified in the notice a return upon any subject connected with its affairs and, in the opinion of the Minister, relevant to the administration or enforcement of this Act. 1979, c. 22, s. 18.

## INVESTMENT INCENTIVES

**19.** Where a small business development corporation is <sup>Exemption</sup> registered under this Act, the corporation is not liable for <sup>from</sup> the tax imposed by Part III of the *Corporations Tax Act*, with <sup>capital tax</sup> respect only to the maximum equity capital amount set out in <sup>R.S.O. 1980,</sup> <sup>c. 97</sup> clause 4 (c) and retained earnings thereon. 1979, c. 22, s. 19; 1980, c. 21, s. 7.

**20.—**(1) Subject to subsections (2) and (3) of this section and <sup>Incentives</sup> subsection 5 (4), where a person or a corporation complies with the provisions of this Act, the Minister may make a grant under section 21 or allow a tax credit under section 22.

Idem

(2) Unless a small business development corporation has established and maintained a trust as provided in section 8, the Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of that corporation.

Revocation of  
registration or  
refusal of grant

(3) Subject to section 28, where the Minister is of the opinion that the small business development corporation, its officers or directors, or its shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant or tax credit to which they would not otherwise be entitled, the Minister may,

- (a) revoke the registration of the small business development corporation; or
- (b) refuse to pay a grant under section 21 or allow a tax credit under section 22.

Saving

(4) Where a small business development corporation does not comply with the provisions of this Act or the regulations, but the Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, the Minister may, for such time as in his opinion is appropriate, refrain from revoking the registration of any corporation. 1979, c. 22, s. 20.

Payment  
of grant

**21.**—(1) Subject to subsections (2) and (3), a person who is the beneficial and registered owner of equity shares of a small business development corporation may make an application in the form prescribed by the Minister for a grant and the Minister may pay a grant equal to 30 per cent of the amount of money actually paid by the applicant to the small business development corporation for equity shares issued to him by the corporation.

Idem

(2) No grant shall be paid by the Minister under subsection (1) unless,

- (a) the equity shares are purchased or acquired directly from the corporation issuing the equity shares; and
- (b) the applicant is ordinarily resident in Ontario.

Supporting  
material

(3) An application under subsection (1) shall be accompanied by,

- (a) a certificate containing the prescribed information signed by the secretary and one authorized officer of

the small business development corporation that has issued the equity shares in respect of which a grant is sought; and

- (b) such additional material as may be prescribed by the Minister.

(4) In this section and in section 20, "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative that is ordinarily resident in Ontario, but does not include a partnership, association, syndicate, organization or trust that has a corporation as one of its members or beneficiaries. 1979, c. 22, s. 21. Interpretation

(5) A pension fund with 10 per cent or more of its contributors resident in Ontario that meets the prescribed terms and conditions shall be deemed to be a person ordinarily resident in Ontario. Pension funds

(6) Notwithstanding anything in this section, a corporation incorporated as a credit union or caisse populaire under the *Credit Unions and Caisses Populaires Act*, or a predecessor of that Act, and such other corporations as may be prescribed, may apply for and receive a grant under subsection (1) in lieu of a tax credit under section 22. Grants to corporations  
R.S.O. 1980, c. 102

(7) When the person applying for a grant under subsection (1) is the registered, but not the beneficial, owner of equity shares of a small business development corporation, the Minister may prescribe the terms and conditions relating to the beneficial ownership of the shares that shall be complied with in order to entitle the person to the grant. 1980, c. 21, s. 8. Where applicant not the beneficial owner

**22.**—(1) Subject to subsection (2), a corporation that is the beneficial and registered owner of equity shares of a small business development corporation may, subject to the approval of the Minister, deduct from the tax otherwise payable by it under Part II of the *Corporations Tax Act*, an amount equal to 30 per cent of the amount of money actually paid by the corporation to the small business development corporation for equity shares issued to it by the corporation. Tax credit  
R.S.O. 1980, c. 97

(2) Where a corporation claims a tax credit under subsection (1), the annual return required under section 67 of the *Corporations Tax Act*, in which the credit is claimed shall be accompanied by, Supporting material

- (a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that



has issued the equity shares in respect of which a tax credit is sought; and

- (b) such additional material as may be prescribed by the Minister. 1979, c. 22, s. 22.

Tax credit  
carried back  
or forward  
R.S.O. 1980,  
c. 97

**23.** The unused portion of a tax credit obtained under subsection 22 (1), not exceeding the tax payable for the preceding taxation year under Part II of the *Corporations Tax Act*, may be,

- (a) carried back by the corporation and added to the amount paid on account of the tax payable by the corporation for the taxation year immediately preceding the taxation year in which the credit is earned; or
- (b) if, after making the deduction in clause (a), any unused portion of the tax credit remains, carried forward by the corporation and deducted from the tax otherwise payable by the taxpayer under Part II of the *Corporations Tax Act* in subsequent taxation years. 1980, c. 21, s. 9.

Recovery of  
grant or tax  
credit

**24.** Where a small business development corporation proposes to wind up or dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation, the small business development corporation shall immediately pay to the Minister an amount of money calculated according to the following rules:

1. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration equal to or greater than that for which the share was issued, the small business development corporation shall pay to the Minister an amount of money equal to 30 per cent of the consideration paid to the corporation by the shareholder for the share at the time the share was issued.
2. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration that is less than that for which the share was issued, the small business development corporation shall pay to the Minister an amount equal to 30 per cent of the gross consideration paid by the corporation for the purchase or acquisition of the share.

3. Where the registration of a small business development corporation is revoked or where the corporation proposes to wind up or dissolve, it shall pay to the Minister an amount of money equal to 30 per cent of the value of all of its shareholders' equity to an amount not exceeding the aggregate of the grants or tax credits made or allowed by the Minister in respect of all equity shares then issued and outstanding at the time of revocation, winding up or dissolution, calculated in the prescribed manner.
4. Where the corporation proposes to wind up or dissolve or where the registration of a small business development corporation is revoked for failure to comply with subsection 7 (1) or (2), it shall pay to the Minister, in addition to the amount set out under paragraph 3, an amount equal to the interest earned on all moneys paid into the trust fund established by the corporation under section 8 and not paid out in accordance with subsection (2) of that section from the date of registration of the corporation under this Act. 1979, c. 22, s. 24; 1980, c. 21, s. 10.

**25.** The amount to be paid to the Minister by the small business development corporation under section 24 shall be deemed to be a tax imposed upon the corporation under the *Corporations Tax Act* and may be collected and enforced in accordance with the provisions of that Act. 1979, c. 22, s. 25. Idem  
R.S.O. 1980,  
c. 97

**26.** Every share certificate in respect of equity shares issued by a small business development corporation shall conspicuously state upon its face the words, "The value of the shares represented by this certificate may be significantly affected by recapture provisions under the *Small Business Development Corporations Act*". 1979, c. 22, s. 26. Share  
certificate

**27.**—(1) Where any amount is payable to the Crown or is deemed to be payable to the Crown under this Act, the Minister may, by Notice of Demand in writing to the person or corporation by whom such payment is owing or claimed to be owing, demand payment immediately or in such number of days as are specified in the demand, and if the payment is not made as demanded, the Minister may recover and collect the amount thereof by any of the remedies or procedures provided for in this Act. Demand for  
payment

(2) Notwithstanding that an objection or other proceeding under section 28 has been commenced or may be commenced, every amount demanded to be paid under subsection (1) remains payable and recoverable until the demand therefor is revoked in writing by the Minister. 1979, c. 22, s. 27. Liability for  
payment not  
affected

## DISPUTES

Proposal by  
Minister

**28.—(1)** Where the Minister proposes,

- (a) to refuse to register a corporation under this Act;
- (b) to revoke the registration of a small business development corporation;
- (c) to refuse to make a grant under section 21; or
- (d) to refuse to allow a tax credit under section 22,

he shall serve notice of his proposal, together with written reasons therefor on the applicant or registrant.

Registration  
deemed  
refused

(2) If the Minister has not registered a corporation under section 5 within four months of the date on which the corporation delivered a proposal under section 3, the Minister shall be deemed to have refused registration under clause (1) (a).

Objection

(3) Where a person or corporation objects to a proposal under subsection (1) that is served on them, they may, within sixty days from the day of mailing of the proposal or the date upon which the Minister has been deemed to have refused registration under subsection (2), serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Service

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

Idem

(5) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required.

Action on  
proposal

(6) Where an applicant or registrant does not serve a notice of objection under subsection (3), the Minister may carry out the proposal stated in his notice under subsection (1).

Recon-  
sideration

(7) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the proposal objected to and confirm, vary or abandon the proposal, and he shall thereupon notify the person or corporation making the objection of his action by registered mail.

Where  
decision  
final

(8) A decision of the Minister under subsection (7) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. 1979, c. 22, s. 28.

**29.** In any dispute over a decision or action of the Minister under subsection 28 (7), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Divisional Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. 1979, c. 22, s. 29.

Determination  
of question

#### OFFENCES

**30.**—(1) Every person or corporation that makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Offence

(2) No person or corporation is guilty of an offence under subsection (1) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1979, c. 22, s. 30.

Exception

**31.** Sections 86 to 91 of the *Corporations Tax Act* shall be deemed to apply to,

Application  
of  
R.S.O. 1980,  
c. 97,  
ss. 86 to 91

(a) an application for a grant under section 21;

(b) a claim for a tax credit under section 22;

(c) any books, records, accounts or returns required to be maintained or made by a small business development corporation; and

(d) any books, records, accounts, returns or other information maintained by a small business that has been acquired by a small business development corporation as an eligible investment or that has ceased to be an eligible investment or a small business under this Act,



and any reference in the sections of the *Corporations Tax Act* to a corporation shall be applied as though the sections also included a reference to persons. 1979, c. 22, s. 31; 1980, c. 21, s. 11.

False  
statements

**32.** In addition to any other remedy available under this Act, where any person or corporation obtains a grant or tax credit under this Act or the regulations, on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or tax credit together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction. 1979, c. 22, s. 32.

Limitation

**33.** Proceedings to enforce any provision of this Act or the regulations may be instituted within six years after the time the subject-matter of the proceedings arose. 1979, c. 22, s. 33.

Regulations,  
by Lieutenant  
Governor in  
Council

**34.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (c) prescribing the calculation of the amount of a grant or tax credit where equity shares are purchased by a shareholder as part of a distribution to the public;
- (d) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (e) prescribing the method of calculation of the consideration to be paid for each equity share under section 24 where a small business development corporation proposes to dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation;
- (f) prescribing any conditions that a corporation must meet prior to registration;

- (g) prescribing the method of determining the amount of equity capital of a small business development corporation;
- (h) prescribing authorized investments for the purposes of section 10;
- (i) prescribing the amount of money available at any time under this Act or available by way of grant or tax credit;
- (j) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in respect of operations in Ontario;
- (k) prescribing any matter required by this Act to be prescribed by the regulations.

(2) The Minister may make regulations, by Minister

- (a) prescribing forms and providing for their use;
- (b) prescribing anything that by this Act is to be prescribed by the Minister;
- (c) delegating any of his duties or powers under this Act to any public servant.

(3) A regulation is, if it so provides, effective with reference may be  
retroactive  
to a period before it was filed. 1979, c. 22, s. 34.

**35.** The moneys required for the purposes of this Act Moneys  
shall be paid out of the moneys appropriated therefor by the  
Legislature. 1979, c. 22, s. 35.



## CHAPTER 476

## Small Claims Courts Act

## 1. In this Act,

Interpre-  
tation

- (a) “action” includes a proceeding, suit, matter and cause;
- (b) “county” includes a provisional county and a provisional judicial district;
- (c) “county court” includes a district court;
- (d) “debt or money demand summons” means a summons instituting an action for the recovery of a debt or money demand;
- (e) “defendant” includes a primary debtor;
- (f) “division” means the territory in and for which a small claims court is prescribed;
- (g) “Inspector” means the Inspector of Legal Offices;
- (h) “judge” means,
  - (i) a small claims court judge appointed under this Act, or
  - (ii) a judge of a county court;
- (i) “judgment creditor” includes a creditor who has obtained judgment against a garnishee;
- (j) “judgment debtor” includes a garnishee against whom judgment has been recovered;
- (k) “plaintiff” includes a primary creditor;
- (l) “prescribed form” means the form prescribed in the rules;
- (m) “registered mail” includes certified mail where evidence of delivery is returned to the sender;



(n) "rules" means the rules and regulations made under this Act. R.S.O. 1970, c. 439, s. 1 (1); 1977, c. 52, s. 1; 1979, c. 66, s. 17 (1).

Territorial  
application

**2.** This Act, except where otherwise therein provided, applies to every county and provisional judicial district. R.S.O. 1970, c. 439, s. 2 (1).

#### COURTS

Small  
claims  
courts

**3.** Subject to this Act and the rules, the small claims courts existing at the time this Act takes effect are continued. R.S.O. 1970, c. 439, s. 3.

Name

**4.** The court in each division shall be called "The First (or as the case may be) Small Claims Court of the County of .....". R.S.O. 1970, c. 439, s. 4.

Each court  
to have  
a seal

**5.** Every small claims court shall have a seal, with which all process shall be sealed or stamped, and that shall be paid for out of the Consolidated Revenue Fund. R.S.O. 1970, c. 439, s. 5.

To be courts  
of record

**6.** Every small claims court is a court of record. R.S.O. 1970, c. 439, s. 6.

Courts in  
cities

**7.** In a city in which two small claims courts are prescribed, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant Governor in Council, keep their offices in the same division. R.S.O. 1970, c. 439, s. 7.

Use of  
court house

**8.** The sittings of a small claims court in a county town may be held in the court house. R.S.O. 1970, c. 439, s. 8.

Change in  
number or  
limits of  
court

**9.** Actions and judgments in a small claims court, the number or limits of which are changed, continue to be actions and judgments therein, but the judge may transfer any such action or judgment to any other small claims court, and, when so transferred, it is an action or judgment of such other court. R.S.O. 1970, c. 439, s. 9.

Clerks of  
the peace  
to record  
time and  
place for  
holding  
courts

**10.** The clerk of the peace shall record in a book to be kept by him the divisions as prescribed from time to time,

and the times and places of holding the small claims courts, and the alterations made therein, and he shall transmit to the Inspector a copy of the record. R.S.O. 1970, c. 439, s. 10.

# JUDGES

**11.—(1)** The Lieutenant Governor in Council on the recommendation of the Attorney General may appoint such small claims court judges as are considered necessary. <sup>Appointment of judges</sup>

(2) Every judge appointed under this section shall take Oath and subscribe the following oath before the Chief Judge of the County and District Courts or a judge designated by him:

I, .....  
do swear that I will truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of the Small Claims Courts, so help me God.

and also the oath of allegiance as required by the *Public Officers Act*. <sup>R.S.O. 1980, c. 415</sup>

(3) The oath of office and oath of allegiance shall be transmitted forthwith to the Inspector and shall be filed in his office. <sup>Filing of oaths</sup>

(4) A judge appointed under this section may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, <sup>Removal for cause</sup>

(a) the circumstances respecting the misbehaviour or inability are first inquired into; and

(b) the judge is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

(5) For the purpose of making an inquiry under sub-section (4), the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed <sup>Inquiry</sup>

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c. 411

has the powers of a Commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Order for  
removal

(6) An order removing a judge from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session. 1977, c. 52, s. 2, *part*.

Retirement

**12.**—(1) Every judge appointed under section 11 shall retire upon attaining the age of sixty-five years.

Reappoint-  
ment

(2) Upon attaining the age for retirement under subsection (1), a judge may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years.

Resignation

(3) A judge may at any time resign his office in writing, signed by him and delivered to the Attorney General. 1977, c. 52, s. 2, *part*.

Judicial  
Council

**13.** The Judicial Council for Provincial Judges has the same powers and shall perform the same duties in respect of small claims court judges appointed under section 11 as it has and performs under the *Provincial Courts Act* in respect of provincial judges. 1977, c. 52, s. 2, *part*.

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c. 398

Who to  
preside

**14.** Every small claims court shall be presided over by a judge. R.S.O. 1970, c. 439, s. 12.

In case of  
illness or  
absence of  
judge

**15.**—(1) The judge may appoint a barrister to act as his deputy, and the barrister so appointed has all the powers and privileges vested in and is subject to all the duties imposed by law upon the judge.

Inspector  
to be  
notified

(2) The judge shall forthwith send to the Inspector notice of the appointment, specifying the name and residence of the barrister so appointed and the reason for his appointment.

Duration

(3) No such appointment shall be continued for more than two months, and, in case the Lieutenant Governor in Council disapproves of the appointment, he may annul it. R.S.O. 1970, c. 439, s. 13.

**16.** If the judge does not open court on the day appointed for that purpose, the clerk shall, after 4 o'clock in the afternoon, adjourn the court to an hour on the following day, to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the judge arrives to open court, or until other directions are received from him. R.S.O. 1970, c. 439, s. 14.

Adjourn-  
ment of  
court if  
judge does  
not arrive

**17.—**(1) It is the duty of the judge to see that the officers of his courts perform their duties and to examine into complaints against them.

Judge to  
supervise

(2) The judge may suspend a clerk or bailiff for any cause and, in the case of suspension, shall forthwith report it and the reason therefor to the Inspector, and, if a vacancy occurs in the office of clerk or bailiff, the judge shall forthwith notify the Inspector. R.S.O. 1970, c. 439, s. 15.

Suspensions

**18.** An action by or against a judge may be brought in any small claims court of a county adjoining that in which he resides. R.S.O. 1970, c. 439, s. 16.

Action by  
or against  
judge

**19.** The judge may at any time, and on such terms as to costs and otherwise as to him seem just, amend any defect or error in any proceeding, and all such amendments may be made as are necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. R.S.O. 1970, c. 439, s. 17.

Power to  
amend pro-  
ceedings

#### CLERKS AND BAILIFFS

**20.—**(1) There shall be a clerk and one or more bailiffs for every small claims court, who shall be appointed by the Lieutenant Governor and hold office during pleasure. R.S.O. 1970, c. 439, s. 18.

Every court  
to have  
clerk and  
bailiff

(2) The Lieutenant Governor may appoint a referee for each small claims court who shall hold office during pleasure. 1977, c. 52, s. 3.

Referees

**21.—**(1) In this section, "holiday" means,

Holiday  
defined

(a) a holiday as defined in the *Interpretation Act*;

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c. 219

(b) Saturday;

(c) the day proclaimed as Civic Holiday in the municipality in which the small claims court office is located;



- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office  
hours

(2) Except on holidays when they shall be closed, every small claims court office shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. R.S.O. 1970, c. 439, s. 19.

Clerk to  
issue  
summonses,  
etc.

**22.**—(1) The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form, and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service.

Clerk to  
keep a  
record of  
process

(2) The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto to be entered in a book to be kept in his office, and shall sign his name on every page of the book, and the signed entries, or a copy thereof certified as a true copy by the clerk, are sufficient evidence of such entries and of the proceedings referred to therein without further proof. R.S.O. 1970, c. 439, s. 20.

Books to  
be kept  
by clerks

**23.** A procedure book and a foreign procedure book shall be kept by the clerk. R.S.O. 1970, c. 439, s. 21.

Forwarding  
summonses  
for service  
in other  
divisions

**24.** The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from whom it was received, and shall enter the proceedings in the foreign procedure book. R.S.O. 1970, c. 439, s. 22.

Clerk to  
prepare  
affidavits of  
service, etc.

**25.** The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how it was served, the day of service and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or endorsed on the summons and shall be sworn to by the bailiff, but the judge may require the bailiff to be sworn in his presence and to answer such questions as are put to him touching any service or mileage. R.S.O. 1970, c. 439, s. 23.

Clerks to  
issue  
executions,  
tax costs  
and keep  
account of  
fines, etc.

**26.** The clerk shall issue all warrants and executions, and shall tax costs, subject to revision by the judge, and shall keep an account of all fines payable or paid into court, and of all suitors' money paid into and out of court, and shall enter an account of all such fines and money in a book to be kept by him for that purpose, which shall be open

to all persons desirous of searching it, and it shall at all times be accessible to the judge and the Inspector. R.S.O. 1970, c. 439, s. 24.

**27.** The money arising from any penalty, forfeiture or fine imposed by or under this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the clerk of the peace, to be paid over to the Treasurer of Ontario. R.S.O. 1970, c. 439, s. 25.

Fines and penalties to be paid to clerk of peace

**28.** The clerk shall, at least once in every three months or oftener if required by the clerk of the peace, deliver to him a full account in writing verified by affidavit of all fines levied, accounting for and deducting the reasonable expenses of levying them and any allowance that the judge may make out of such fines in pursuance of the power hereinafter given. R.S.O. 1970, c. 439, s. 26.

Clerks to deliver to clerk of peace a verified account of fines

**29.** The clerk, when required by the judge, shall furnish him with a full account in writing, verified by affidavit, of the money paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. R.S.O. 1970, c. 439, s. 27.

Clerks to furnish judge with a verified account of moneys paid in and out of court

**30.** The clerk shall promptly remit all moneys received by him in payment of a judgment to the person entitled thereto and shall in no case retain any such moneys for a period of more than three months. R.S.O. 1970, c. 439, s. 28.

Clerk to remit moneys

**31.—**(1) The clerk shall annually, in the month of January, make out a correct statement of all sums of money belonging to suitors or others that have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the persons for whom or on whose account such sums were so paid.

Clerk annually to make list of suitors' money in court for six years

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the court house or the place where the court is held, and copies shall also be sent to the Treasurer of Ontario and the Inspector.

Posting and distributing list

(3) All such sums shall form part of the Consolidated Revenue Fund and shall be forthwith paid over by the clerk or officer holding them to the Treasurer of Ontario, and, except by leave of the Lieutenant Governor in Council, no person is entitled to claim any such sum that has remained unclaimed for six years.

Disposition of unclaimed moneys

Claims of  
persons  
under  
disability

(4) The time during which the person entitled to claim any such sum was a minor, or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. R.S.O. 1970, c. 439, s. 29.

Bailiffs to  
serve  
process

**32.** The bailiff shall promptly serve and execute all summonses, orders, warrants and executions delivered to him by the clerk, and shall so soon as served or executed return them to the clerk, but, subject to section 66, he shall not be required to travel beyond the limits of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. R.S.O. 1970, c. 439, s. 30.

By whom  
fees to be  
paid in first  
instance

**33.—**(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on whose behalf it is taken.

How  
enforced

(2) If the fees are not so paid, payment may, by summary order of the judge, be enforced by execution in like manner as a judgment of the court. R.S.O. 1970, c. 439, s. 32.

Bailiff's  
fees to be  
paid to  
clerk when  
execution  
issues

**34.** At the time of the issue of any process or execution, the bailiff's fees thereon shall be paid to the clerk and shall be paid over to the bailiff upon the return of the execution and not before, but, if the bailiff does not become entitled to any part or becomes entitled to a part only of such fees, the whole or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. R.S.O. 1970, c. 439, s. 33.

Bailiff  
to forfeit  
fees if he  
neglects  
to return  
process

**35.** If the bailiff neglects to return any process or execution within the time required by law, he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk who shall keep a special account thereof and account for and pay over the fees to the clerk of the peace, to be paid to the Treasurer of Ontario, to form part of the Consolidated Revenue Fund. R.S.O. 1970, c. 439, s. 34.

Clerk or  
bailiff not  
to accept  
extra fees

**36.** A clerk or bailiff shall not, directly or indirectly, take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim that has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. R.S.O. 1970, c. 439, s. 35.

**37.** Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector may require. R.S.O. 1970, c. 439, s. 36.

Books, etc.,  
to be pro-  
duced for  
inspection

**38.** Every clerk and bailiff shall, on or before the 31st day of January in every year, make a return under oath to the Inspector showing the aggregate amount of fees, charges and emoluments that he became entitled to receive during the year that ended on the 31st day of December next preceding. R.S.O. 1970, c. 439, s. 37.

Clerks' and  
bailiffs'  
returns to  
inspector

**39.** Every clerk, on or before the 31st day of January in each year, shall make a return, in such form and manner as the Lieutenant Governor in Council may prescribe, of the business of his office for the year that ended on the 31st day of December next preceding. R.S.O. 1970, c. 439, s. 38.

Clerk to  
make  
returns to  
Lieutenant  
Governor

**40.** Every clerk, on or before the 31st day of January in each year, shall make to the Inspector a return showing the number of judgment debtors who, during the twelve months ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 133. R.S.O. 1970, c. 439, s. 39.

Annual  
return of  
commitment  
of judgment  
debtors

**41.—(1)** Every clerk and bailiff shall furnish such security as is required by the Lieutenant Governor in Council for the due performance of the duties of his office, and, subject to the rules, the provisions of the *Public Officers Act* relating to the giving of security apply to such security.

Security  
by clerks  
and bailiffs

R.S.O. 1980,  
c. 415

**(2)** The security shall enure to the benefit of any person suffering damage by the default, breach of duty or misconduct of the clerk or bailiff. R.S.O. 1970, c. 439, s. 40.

Security  
to enure  
to benefit  
of person  
injured

**42.—(1)** In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff are *prima facie* evidence against the surety.

Entries of  
clerk or  
bailiff  
evidence  
against  
surety

**(2)** For the purpose of this section, "clerk or bailiff" includes a person who has ceased to be a clerk or a bailiff, as the case may be. R.S.O. 1970, c. 439, s. 41.

Interpre-  
tation of  
"clerk or  
bailiff"

**43.** A clerk shall not practise as a barrister or solicitor. R.S.O. 1970, c. 439, s. 42.

Clerk not  
to practise  
as barrister,  
etc.



Actions by  
and against  
clerks and  
bailiffs

**44.—**(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

Idem

(2) A clerk or bailiff shall sue or be sued separately or jointly with another person in the court of any next adjoining division whether in the same or another county.

Commenced  
before  
appointment

(3) Nothing in this section prevents proceedings from being continued in the court in which the action was brought, if they were commenced before the appointment of such clerk or bailiff. R.S.O. 1970, c. 439, s. 43.

Bailiff and  
other officers  
not to pur-  
chase goods  
seized

**45.** A clerk, bailiff or other officer of the court shall not, directly or indirectly, purchase any property at a sale made by a bailiff under legal process, and every such purchase is void. R.S.O. 1970, c. 439, s. 44.

Extortion

**46.** If a clerk, bailiff or other officer of a small claims court is guilty of extortion, he is, upon proof thereof before the court, forever disqualified from holding any office of profit or emolument in a small claims court, and is also liable in damages to the party aggrieved. R.S.O. 1970, c. 439, s. 45.

Misconduct  
of court  
officers

**47.—**(1) Upon a complaint in writing that a bailiff or officer, acting under colour or pretence of process of his court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the judge may, at a sittings of the court, inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons, and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he thinks just.

Enforcing  
order for  
payment  
by bailiff

(2) In default of payment of the money ordered to be paid by the bailiff or officer within the time mentioned in the order for the payment thereof, the judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to a correctional institution in the county for a period not exceeding three months, unless the money and costs are sooner paid. R.S.O. 1970, c. 439, s. 46.

**48.** If a bailiff, by neglect, connivance or omission, loses the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued, and upon demand being made therefor, and on his refusal to satisfy the damages, payment may be enforced by such means as are provided for enforcing judgment. R.S.O. 1970, c. 439, s. 47.

Bailiff neglecting duty in relation to execution

**49.** All accounts, moneys, books, papers, documents and other things in the possession of a clerk or bailiff, by virtue of or appertaining to his office, shall, upon his death, resignation or removal, immediately become the property of the clerk of the peace, who shall hold them until the appointment of another clerk or bailiff to whom he shall deliver them when security has been furnished on behalf of such clerk or bailiff. R.S.O. 1970, c. 439, s. 48.

Resignation, removal or death of clerk

**50.** Leave of absence for a period not exceeding two months may be granted by the Inspector to a clerk or bailiff. R.S.O. 1970, c. 439, s. 49.

Leave of absence

**51.** Subject to section 52, upon the death, resignation, suspension or removal of the clerk, the clerk of the peace shall be the clerk until a successor is appointed or the suspension is removed, and the clerk of the peace shall be paid by the county for his services in taking over the office the sum of \$5 together with actual disbursements. R.S.O. 1970, c. 439, s. 50.

Clerk of peace to act as clerk when office of clerk is vacant

**52.—(1)** With the approval of the Inspector, when prevented from acting because of absence or illness or any cause other than suspension, the clerk or bailiff may appoint a deputy to act for him, and the clerk or bailiff, as the case may be, is jointly and severally responsible for all the acts and omissions of the deputy so appointed.

Deputy during absence of clerk or bailiff

**(2)** With the approval of the Inspector, where there is no clerk or bailiff or the clerk or bailiff is under suspension, the judge may appoint a clerk or bailiff, as the case may be, *pro tempore*.

Appointment of clerk, bailiff *pro tempore*

**(3)** Where an appointment is made under subsection (1) or (2), the person so appointed has, during the period of his appointment, all the powers and privileges and is subject to the duties of the clerk or bailiff, as the case may be.

Powers, privileges, duties

Clerk acting  
as bailiff

(4) Where there is no bailiff or the bailiff is for any reason unable to act, the clerk may act in his place. R.S.O. 1970, c. 439, s. 51.

Continua-  
tion of  
proceedings

**53.**—(1) In the event of the death, resignation, suspension or removal of a bailiff, after action taken by him under an execution or attachment, the proceedings may be continued by his successor.

Securities  
given to  
the bailiff

(2) The benefit of all securities given to the bailiff enures to his successor in office. R.S.O. 1970, c. 439, s. 52.

#### JURISDICTION AS TO CAUSES OF ACTION AND QUANTUM

Cases in  
which court  
has no  
jurisdiction

**54.** A small claims court does not have jurisdiction in,

- (a) an action for the recovery of land, or an action in which the right or title to a corporeal or incorporeal hereditament, or any toll, custom, or franchise, comes in question;
- (b) an action in which the validity of a devise, bequest or limitation under a will or settlement is disputed;
- (c) an action for malicious prosecution, libel or slander;
- (d) an action against a justice of the peace for anything done by him in the execution of his office, if he objects thereto;
- (e) an action upon a judgment or order of the Supreme Court or a county court where execution may issue upon or in respect thereof. R.S.O. 1970, c. 439, s. 53, *revised*.

Cases in  
which court  
has juris-  
diction

**55.** Except as otherwise provided in this Act, a small claims court has jurisdiction in,

- (a) any action where the amount claimed does not exceed \$1,000 exclusive of interest;
- (b) any action of replevin where the value of property distrained, taken or detained does not exceed \$1,000; and

- (c) any action or matter authorized by or under any Act to be heard in the small claims court. R.S.O. 1970, c. 439, s. 54; 1977, c. 52, s. 4.

**56.**—(1) In this section, “prime rate” means the lowest <sup>Prime rate defined</sup> rate of interest quoted by chartered banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada.

(2) For the purposes of establishing the prime rate, the <sup>Idem</sup> periodic publication entitled the Bank of Canada Review purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime rate as set out therein, without further proof of the authenticity of the publication.

(3) Subject to subsection (6), a person who is entitled to a <sup>Prejudgment interest</sup> judgment for the payment of money is entitled to claim and have included in the judgment an award of interest thereon,

- (a) at the prime rate existing for the month preceding the month on which the action was commenced; and

(b) calculated,

- (i) where the judgment is given upon a liquidated claim, from the date the cause of action arose to the date of the judgment, or

- (ii) where the judgment is given upon an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.

(4) Where the judgment includes an amount for special <sup>Special damages</sup> damages, the interest calculated under subsection (3) shall be calculated on the balance of special damages incurred as totalled at the end of each six month period following the notice in writing referred to in subclause (3) (b) (ii) and at the date of the judgment.

(5) Interest under this section shall not be awarded, <sup>Exclusions</sup>

- (a) on exemplary or punitive damages;
- (b) on interest accruing under this section;
- (c) on an award of costs in the action;



- (d) on that part of the judgment that represents pecuniary loss arising after the date of the judgment and that is identified by a finding of the court;
- (e) except by consent of the judgment debtor, where the judgment is given on consent; or
- (f) where interest is payable by a right other than under this section.

Discretion  
of judge

(6) The judge may, where he considers it to be just to do so in all the circumstances,

- (a) disallow interest under this section;
- (b) fix a rate of interest higher or lower than the prime rate;
- (c) allow interest under this section for a period other than that provided,

in respect of the whole or any part of the amount for which judgment is given. 1977, c. 52, s. 5 (1).

Summary  
hearings

**57.** The judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R.S.O. 1970, c. 439, s. 55.

Judge may  
order  
payment  
in money,  
although  
contract  
not for  
payment  
in money

**58.** Upon a contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. R.S.O. 1970, c. 439, s. 56.

Powers of  
court

**59.—(1)** A small claims court in actions otherwise within its jurisdiction has power to grant relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the Supreme Court.

No  
injunctions

(2) Nothing in this section confers jurisdiction to grant an injunction. R.S.O. 1970, c. 439, s. 57.

**60.** A minor may sue for any sum not exceeding \$100 due to him for wages, or for work or services, as if he were of full age. R.S.O. 1970, c. 439, s. 58. Minors may  
sue for  
wages

**61.** A cause of action shall not be divided into two or more actions for the purpose of bringing it within the jurisdiction of a small claims court. R.S.O. 1970, c. 439, s. 59. Causes of  
action not  
to be  
divided

**62.** A judgment in an action brought for the balance of an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of a small claims court, is a full discharge of all demands in respect of the account for the balance of which such action was brought or for the whole claim, as the case may be. R.S.O. 1970, c. 439, s. 60. Judgment  
to be full  
discharge

**63.**—(1) Where it appears at any stage of an action otherwise of the proper competence of a small claims court that the court has not cognizance thereof on account of the title to land or a corporeal or incorporeal hereditament, or a toll, custom or franchise being in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, or the amount involved being in excess of the jurisdiction of the court, the action shall not on that account be dismissed, but a judge of the Supreme Court, or the judge of the court in which the action is pending, may order the action to be transferred to the Supreme Court or to a county court where the county court would have jurisdiction, upon such terms as to the payment of costs or otherwise as he thinks fit, and thereafter the action shall proceed in the Supreme Court or the county court as if originally commenced therein and as if the defendant had entered an appearance, but the judge may give such directions as to procedure as he considers proper. Transfer of  
actions to  
Supreme  
Court

(2) Where the order is made by a judge of a small claims court, an appeal lies therefrom to the Divisional Court and that court may rescind the order or vary the terms thereof. R.S.O. 1970, c. 439, s. 61. Appeal  
from order

**64.** If it appears to a judge of the Supreme Court that an action is a fit one to be tried in the Supreme Court, he may order that it be transferred to the Supreme Court upon such terms as to payment of costs or otherwise as he thinks fit. R.S.O. 1970, c. 439, s. 62. Action may  
be removed  
into  
Supreme  
Court

**65.**—(1) Where a counterclaim is disputed and involves matters beyond the jurisdiction of the small claims court, the judge may try the claim and may, if he sees fit, stay the issue of execution upon the judgment until the counterclaim Counter-  
claim  
involving  
matters  
beyond  
jurisdiction

has been disposed of, upon such terms as to security and otherwise as he sees fit to impose.

Set-off  
of counter-  
claim when  
admitted

(2) If the counterclaim or any part thereof is admitted, the judge may direct the amount admitted to be set off *pro tanto* without prejudice to any proceedings to recover the balance. R.S.O. 1970, c. 439, s. 63.

#### TERRITORIAL JURISDICTION AND PLACE OF TRIAL

In what  
court  
actions  
to be  
entered  
and tried

**66.**—(1) An action in a small claims court shall be entered and tried,

- (a) in the court for the division in which the cause of action arose; or
- (b) in the court for the division in which the defendant or any one of several defendants resides or carries on business; or
- (c) in the court whose place of sitting is nearest to the residence of the defendant or any one of several defendants.

Woodsman's  
wages

(2) In addition to the courts mentioned in subsection (1), an action of a woodsman for wages may be entered and tried in the court for the division in which his contract for hire was made, regardless of any stipulation in the contract or elsewhere to the contrary, and, in this subsection, "woodsman" means a person performing labour or services in connection with logs or timber, and includes a cook, blacksmith and every type of artisan usually employed in connection with logging or timbering operations.

Service of  
process in  
certain  
cases

(3) In any case under clause (1) (c) or subsection (2), a summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor and all other process and proceedings to enforce payment of the judgment may be issued to the bailiff of such court and be executed and enforced by him in the county in which the debtor resides as well as in the county in which the judgment was recovered. R.S.O. 1970, c. 439, s. 64.

When  
actions may  
be brought  
in other than  
the regular  
divisions

**67.** If a person desires to bring an action in the court of a division other than as in section 66 mentioned, the judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the judge granting the order or in an adjoining county. R.S.O. 1970, c. 439, s. 65.

**68.** No proviso, condition, stipulation, agreement or statement that provides for the place of trial of an action, matter or proceeding is of any force or effect where the defendant, within the time limited for disputing the plaintiff's claim or within such further time as the judge allows, files with the clerk of the court in which the action was commenced a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. R.S.O. 1970, c. 439, s. 66.

Effect of agreement as to place of trial

**69.**—(1) Where a claim is within the proper competence of a small claims court, the action may be brought notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of action arose or partly arose, but the court may refuse to allow the action to proceed if it appears that the action is one that ought to be tried elsewhere.

Actions when defendant resides out of Ontario

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who is, either before or after the service, approved by the judge or by the clerk, but the summons shall be served at least fifteen days before the return day thereof.

Service of summons on non-residents

(3) Where service of the summons has been effected out of Ontario, the judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole \$5. R.S.O. 1970, c. 439, s. 67.

Allowance for service out of Ontario

**70.** Where the defendant is a corporation not having its head office in Ontario and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R.S.O. 1970, c. 439, s. 68.

Where defendant a corporation with head office out of Ontario

**71.**—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction, but, on such terms as the judge orders, all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last-mentioned court.

When action entered in wrong court



Clerk to  
place on  
list and  
notify  
parties

(2) The clerk of the court to which the proceedings have been transferred shall place the action on the list for trial at the next sittings of his court that commence six clear days or more after he receives the papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered mail of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. R.S.O. 1970, c. 439, s. 70.

#### PROCEDURE BEFORE TRIAL

Entry of  
claim

**72.**—(1) The plaintiff shall enter his claim with the clerk and shall at the time of the entry leave with the clerk a copy of the claim for each defendant.

Particulars

(2) The claim shall set out the particulars thereof with reasonable certainty and detail.

Summons

(3) Each claim shall be numbered by the clerk according to the order in which it is entered, and a summons shall be issued by the clerk, bearing the number of the claim on the margin thereof. R.S.O. 1970, c. 439, s. 71.

Promissory  
note, etc.,  
to be filed

**73.** In an action on a promissory note, bill of exchange or cheque, the note, bill or cheque shall be filed with the clerk before judgment, unless otherwise ordered or unless it be shown that the note, bill or cheque is lost or that it cannot for some other reason be produced. R.S.O. 1970, c. 439, s. 72.

What to  
accompany  
summons

**74.** The clerk shall annex the plaintiff's claim to the summons and shall deliver copies of the summons and claim to the proper person to serve it. R.S.O. 1970, c. 439, s. 73.

Method of  
service  
of claim

**75.** Where the amount of the claim is \$100 or more, the service shall be personal and, where the amount is less than \$100, the service shall be on the defendant, his wife or servant, or on a grown-up person in the defendant's usual place of residence or business. 1972, c. 107, s. 2.

Substitu-  
tional  
service

**76.** The judge may make an order for substitutional service or for service by advertisement or otherwise. R.S.O. 1970, c. 439, s. 75.

Service on  
corporations

**77.**—(1) Every summons or process, whether before or after trial, against a corporation, firm or individual whose chief place of business is not in the division in which the summons or process is issued, and all subsequent papers and proceedings in the action, may be served on the agent of the

corporation, firm or individual whose office or place of business as such agent is either in the division from the court of which the summons or process issued, or is nearest thereto.

- (2) For the purpose of this section, “agent” includes, Interpretation
- (a) in the case of a railway company, a stationmaster having charge of a station of the company;
  - (b) in the case of a telegraph company, a person having charge of a telegraph office of the company;
  - (c) in the case of an express company, a person having charge of an express office of the company;
  - (d) in the case of any other corporation, firm or individual, a manager or other principal officer in charge of the office or place of business. R.S.O. 1970, c. 439, s. 76.

**78.** Where a party to an action intends to dispute the claim made against him, he shall leave with the clerk within ten days of the service upon him of the summons or other process constituting a notice of the claim a notice of dispute setting out his reasons for disputing the claim together with sufficient copies thereof, and the clerk shall forthwith send a copy thereof to each of the plaintiffs or other parties to the action. R.S.O. 1970, c. 439, s. 77. Notice of dispute

**79.** Subject to subsection 89 (5), where a party to an action intends to contest the territorial jurisdiction of the court, he shall include in his notice of dispute a statement that he disputes the jurisdiction of the court, and in default of such notice the jurisdiction shall be considered as established and determined and all proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. R.S.O. 1970, c. 439, s. 78. Dispute as to territorial jurisdiction

**80.** At any time before judgment is entered, although the time for giving the notice disputing the plaintiff's claim has expired, the judge, on sufficient grounds shown and on such terms as to him seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with the clerk and also delivered to the plaintiff or sent to him by registered mail. R.S.O. 1970, c. 439, s. 79. Leave to dispute claim before judgment

**81.** A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings Withdrawal of defence

at which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered mail, and thereupon the plaintiff is entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. R.S.O. 1970, c. 439, s. 80.

Notice of  
set-off  
or other  
statutory  
defence  
R.S.O. 1980,  
c. 240

**82.**—(1) Where the defendant desires to avail himself of the laws of set-off, or of the *Limitations Act*, or of a defence under any other statute, he shall give notice thereof to the plaintiff.

Evidence  
of set-off

(2) Except by leave of the judge, no evidence of set-off shall be given by the defendant except such as is contained in the particulars delivered.

Where  
set-off  
exceeds  
amount  
due to  
plaintiff

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess is an amount within the jurisdiction of the court, but, if the excess is an amount beyond the jurisdiction of the court, the judge may order that an amount of the set-off equal to the amount found to be due to the plaintiff be satisfied by the claim, but the adjudication is not a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R.S.O. 1970, c. 439, s. 81.

Plea of  
tender with  
payment of  
money  
into court

**83.**—(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his notice of dispute and at the same time paying into court the amount mentioned in the notice, and notice of the dispute and payment shall be forthwith sent by the clerk to the plaintiff by registered mail or delivered at his usual place of residence or business.

Notice by  
plaintiff

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim, and all proceedings in the action shall be stayed unless within five days after the receipt of notice of the payment he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed.

If  
plaintiff  
does not  
give notice

(3) If the plaintiff does not give the notice mentioned in subsection (2), the money shall be paid to him less \$1 to be paid over to the defendant for his trouble.

Giving of  
notice  
after time  
limited

(4) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just.

(5) If after tender and payment into court the plaintiff proceeds with the action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment, but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. R.S.O. 1970, c. 439, s. 82.

Rule as to costs where plaintiff proceeds for balance

**84.**—(1) The defendant may, within the time limited for filing his notice of dispute, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment.

Defendant may pay money into court

(2) The clerk shall forthwith deliver or send notice of such payment by registered mail to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within five days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed.

Clerk to give notice of payment to plaintiff

(3) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just.

Notice may be given after five days

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by the court to be paid. R.S.O. 1970, c. 439, s. 83.

Plaintiff to pay defendant's costs if no further sum recovered

**85.**—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof, and, upon the production of the confession or acknowledgment to the judge and proof thereof by the oath of the clerk or bailiff, the judge may order that judgment be entered thereon.

Clerks and bailiffs may take confessions

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant or any other person except his lawful fees for taking the confession or acknowledgment and that he has no interest in the demand sought to be recovered.

Oath of clerk or bailiff



Judgment  
on consent

(3) Either party may apply to a judge for judgment to be signed on consent. R.S.O. 1970, c. 439, s. 84.

Striking  
out and  
adding  
parties

**86.**—(1) The judge at any stage of the proceedings upon such terms as appear to him to be just may order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out and that a person who ought to have been joined or whose presence is necessary in order to enable him effectually and completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant or garnishee.

Substituting  
or adding  
plaintiff

(2) Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff, the judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he considers just.

Consent of  
party added  
required

(3) No person shall be added or substituted as a plaintiff or as a next friend unless his consent in writing thereto is filed.

Service on  
parties  
added

(4) A person who is added as a defendant or garnishee shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have commenced from the date of the order making him a party, but, if the application to add a person as a party defendant or garnishee is made at the trial, the judge may make the order in a summary manner upon such terms as to him seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. R.S.O. 1970, c. 439, s. 85.

Third  
party

**87.**—(1) Where a defendant claims to be entitled to contribution or indemnity from or any other relief over against a person not a party to the action or against another defendant, hereinafter called a third party, he may, within the time limited for entering his dispute, enter with the clerk his account, claim or demand in writing in detail, and, in cases of tort, particulars of his demand, against the third party stating the nature and grounds thereof, and shall at the same time deliver to the clerk a copy, and, if necessary, copies of his account, claim or demand, and shall pay to the clerk the prescribed fees.

Summons  
to third  
party

(2) The clerk upon receipt of the prescribed fees shall annex the account, claim or demand and particulars, if any,

to a copy of the summons to the defendant and shall deliver a copy thereof to the proper person for service upon the third party.

(3) The practice and procedure as between the defendant and the third party shall be the same with necessary modifications as the practice and procedure as between a plaintiff and defendant, and the judge may make such direction as appears proper for having the question between the defendant and the third party most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action and may make such order or give such judgment against the third party as is required. Procedure

(4) Where a third party makes default in entering an appearance and if the action is tried and results in favour of the plaintiff, the judge who tries the action may, at or after the trial, direct such judgment as the nature of the case requires to be entered for the defendant giving the notice against the third party. Default of appearance

(5) A plaintiff shall not be prejudiced or unnecessarily delayed by reason of questions between the defendant and the third party in which he is not concerned, and such directions shall be given and terms imposed as are necessary to prevent delay of the plaintiff where it can be done without injustice to the defendant and the third party. R.S.O. 1970, c. 439, s. 86. Delay to be avoided

**88.** Where in an action in which the claim is not a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the plaintiff shall not be required to prove liability but shall prove the amount of his claim in court. R.S.O. 1970, c. 439, s. 87. Where no dispute, general rule

**89.**—(1) Where in an action for the recovery of a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, final judgment may be entered by the clerk at any time within six months of the return of the summons, or, by the order of the judge, at any time thereafter for the amount claimed, and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim. Default judgment

(2) Where in an action for the recovery of a debt or money demand a notice of dispute is filed in respect of Dispute as to part of claim

part only of the plaintiff's claim, subsection (1) applies to the other part of the claim.

Proof of  
service

(3) Judgment shall not be entered until the summons and claim with an affidavit of the due service of both have been filed.

Judge may  
set aside  
judgment

(4) The judge may set aside the judgment and permit the case to be tried on such terms as to him seem just. R.S.O. 1970, c. 439, s. 88 (1-4).

Default  
judgment  
not to be  
entered  
until proper  
court proved

(5) Where a summons has been forwarded for service in another division under section 24 and the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the clerk shall not enter judgment until it is proved in court or by affidavit that the action was entered in the proper court, and, if the judge is satisfied that the action was not entered in the proper court, he shall transfer the case to the proper court on such terms as to him seem just. R.S.O. 1970, c. 439, s. 88 (5); 1972, c. 107, s. 3.

Judgment  
by default  
under s. 89,  
where final  
judgment  
not entered

**90.** Where proof is made by affidavit or otherwise of the service of a debt or money demand summons and of the claim as required by section 89 and judgment has not been entered under such section, the judge may, if the defendant does not in person or by agent appear in open court as required by the summons, give judgment against him by default without requiring proof of the plaintiff's claim. R.S.O. 1970, c. 439, s. 89.

Motion for  
judgment

**91.—**(1) In an action for \$25 or more commenced by a debt or money demand summons, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the debt or money demand summons, or at any subsequent time, serve the defendant with a notice of motion and copy of the affidavit, returnable not less than four clear days after service, to show cause before the judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs.

Idem

(2) The judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his agent

by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits, or discloses such facts as the judge considers sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

(3) The defendant may show cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim, and the judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

How  
defendant  
may show  
cause

(4) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff is entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the judge seems just, and the defendant may be allowed to defend as to the residue of the claim.

Partial  
defence

(5) If it appears to the judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff is entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

Where one  
defendant  
has good  
defence

(6) Leave to defend may be given unconditionally or subject to such terms as to giving security or otherwise as to the judge seem just.

Terms upon  
giving leave  
to defend

(7) Within seven days after making the order and upon good grounds being shown, the judge may set aside or vary the order upon such terms as to him seem just. R.S.O. 1970, c. 439, s. 90.

Setting  
aside or  
varying  
order

#### TRIALS, WITNESSES, EVIDENCE

**92.**—(1) Where a trial is to be had, the defendant shall either personally or by agent appear in the court to answer, and, on answer being made, the judge shall without further pleading or formal joinder of issue proceed in a summary way to try the action and give judgment, and, if satisfactory proof

Judge may  
summarily  
dispose of  
action



is not given entitling either party to judgment, he may nonsuit the plaintiff.

Scope of  
evidence

(2) No evidence shall be given of any cause of action except such as is contained in the claim as entered by the plaintiff, unless the judge in the special circumstances of any case otherwise directs. R.S.O. 1970, c. 439, s. 91.

Actions  
over \$200

**93.**—(1) The clerk shall place all actions in which the sum sought to be recovered exceeds \$200 at the foot of the trial list and the judge shall in such cases, unless an agreement not to appeal has been signed and filed as provided by section 107, take down the evidence in writing or cause the same to be taken down in shorthand by a court reporter appointed under section 14 of the *County Judges Act*, or by some other competent person.

R.S.O. 1980,  
c. 101

Evidence  
taken down  
by judge

(2) Where the evidence is taken down by the judge in writing, it shall be left with the clerk and, in the event of an application for a new trial, it shall be forwarded to the judge by the clerk for the purposes of the application.

Court  
reporter's  
notes

(3) Where the evidence is taken down in shorthand, it is not necessary for the court reporter to extend or transcribe his notes except in the case of an appeal or an application for a new trial.

Fees and  
expenses

(4) The fees and expenses of a court reporter appointed under section 14 of the *County Judges Act* attending for the purpose of taking down the evidence as provided in subsection (1) shall be borne and paid in the same manner as the fees and expenses of a court reporter attending a sittings of a county or district court. R.S.O. 1970, c. 439, s. 92.

Proceedings  
in case  
defendant  
does not  
appear

**94.** If the defendant does not appear at the trial or sufficiently excuse his absence, or if he neglects to answer, the judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the judge may, in his discretion, give judgment without further proof. R.S.O. 1970, c. 439, s. 93.

Judge may  
adjourn  
hearing  
of cause

**95.** The judge may adjourn the trial of an action to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause that the judge thinks reasonable, upon such conditions as to payment of costs and admission of evidence, or otherwise, as to him seem just. R.S.O. 1970, c. 439, s. 94.

**96.**—(1) A party may obtain from the clerk of any small claims court in the county a subpoena with or without the clause for the production of books, papers and documents, requiring any witness, resident in Ontario or served with the subpoena therein, to attend at a specified court or place before the judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk, when requested by a party or his agent, shall furnish copies of such subpoena.

Parties may obtain subpoenas from clerk

(2) Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of service and of tender or payment of witness fees and mileage may be received by the judge, either orally or by affidavit. R.S.O. 1970, c. 439, s. 95.

Service of subpoena

**97.**—(1) Every person served with a copy of a subpoena to or for whom at the time of service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpoena, and every person in court called upon to give evidence who refuses to be sworn or to give evidence, is liable to pay such fine, not exceeding \$8, as the judge orders, and is also liable to imprisonment for a term not exceeding ten days on the order of the judge.

Penalty for disobeying subpoena or refusing to be sworn

(2) The fine shall be levied and collected with costs by the same process as a judgment recovered in the court, and the whole or any part of the fine, after deducting the costs, is applicable, in the discretion of the judge, towards indemnifying the party injured by such refusal or neglect, and the remainder forms part of the Consolidated Revenue Fund. R.S.O. 1970, c. 439, s. 96.

Enforcing payment of fine

**98.**—(1) Subject to subsections (2) and (3), the judge may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in the Supreme Court,

What is admissible in evidence at a hearing

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceedings and may act on such evidence, but the judge may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing,

What is inadmissible in evidence at a hearing

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any statute.

**Conflicts** (3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

**Copies** (4) Where the judge is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing. 1977, c. 52, s. 7.

**Power to issue commissions to take evidence** **99.**—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the judge, upon hearing the parties, may order the issue of a commission out of and under the seal of the court to a commissioner to take the examination of such person.

**Applicant and employees** (2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness.

**Persons in Ontario** (3) If it is made to appear to the judge that a material and necessary witness residing in Ontario is sick, aged or infirm, or that he is about to leave Ontario, and that his attendance as a witness cannot be procured, the judge may make an order appointing a suitable person to take his testimony.

**Idem** (4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario and at a great distance from the place of trial, if it is made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or so great that the party desiring his attendance should not under the circumstances be required to incur such expense.

**Service of order** (5) A copy of the order, with two days notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear and cross-examine the witness.

**Rules, S.C.O.** (6) The rules of the Supreme Court, so far as they are applicable, apply to every commission or order issued under this section.

**Costs of commission** (7) The costs of the issue, transmission, execution and return of a commission issued or order made under this section

are in the discretion of the judge, who may allow a sum in gross therefor, and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner as the ordinary costs of an action. R.S.O. 1970, c. 439, s. 97.

**100.** A barrister or solicitor, or any other person not prohibited by the judge, may appear at the trial or hearing of an action as agent for a party thereto. R.S.O. 1970, c. 439, s. 100.

Who may  
act as  
agents  
at trial

**101.** The judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision, but, if he is not then prepared to pronounce a decision, he may postpone it until it is convenient for him to give it, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered mail notify the parties or their agents thereof. R.S.O. 1970, c. 439, s. 101.

Judge may  
give  
judgment  
instantly or  
postpone  
judgment

**102.—(1)** The judge may order the times and the proportions in which a sum and costs recovered by judgment shall be paid, having regard to section 117.

Order as to  
payment

(2) Unless otherwise ordered, execution shall not issue within fifteen days after the entry of judgment, but the judge may order the amount of the judgment or any instalment thereof to be paid into court. R.S.O. 1970, c. 439, s. 102.

Execution  
not to issue  
for 15  
days after  
judgment

**103.—(1)** Unless otherwise provided, the costs of and incidental to all actions are in the discretion of the judge, who has full power to determine by whom and to what extent costs shall be paid.

Judge's  
authority  
as to costs

(2) If a judge does not make an order as to costs, they abide the event of the action.

Costs to  
abide event  
except by  
order

(3) Where the plaintiff does not appear or does not prove his claim, the judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Allowance  
to defendant  
for  
attendance

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the judge nevertheless has the power conferred by subsection (1), and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. R.S.O. 1970, c. 439, s. 103.

Costs when  
action fails  
for want of  
jurisdiction



Counsel fee,  
where action  
contested

**104.**—(1) Where in an action for more than \$200 that is contested as to liability or quantum, and in the cases mentioned in clauses 108 (b) and (c), a counsel or solicitor or student articulated to the solicitor has been employed by the successful party in the conduct of the cause or defence, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$40 or, if the case occupies more than one day, to not more than \$50, be allowed to the successful party and it shall be added to the costs. R.S.O. 1970, c. 439, s. 104 (1); 1977, c. 52, s. 9 (1).

where  
assessment  
uncontested

(2) Where in a assessment of damages, upon which the defendant does not appear personally or by counsel and in which judgment is given for more than \$200, a counsel or solicitor or student articulated to the solicitor has been employed by the plaintiff, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$25, be allowed to the plaintiff and it shall be added to the costs. R.S.O. 1970, c. 439, s. 104 (2); 1977, c. 52, s. 9 (2).

where  
adjournment

(3) Where a party applies for and obtains an adjournment in an action involving more than \$200 that is contested as to liability or quantum, the presiding judge may, if he is of opinion that counsel for any of the other parties has been unduly inconvenienced by the adjournment, award him a counsel fee of \$10. R.S.O. 1970, c. 439, s. 104 (3).

Costs of  
witnesses  
in certain  
cases

**105.** Where the defendant having disputed the plaintiff's claim, afterwards and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff in good faith and reasonably incurs expenses in procuring witnesses or in attending at court, the judge may order the defendant to pay such costs or such portion thereof as to him seem just. R.S.O. 1970, c. 439, s. 105.

#### NEW TRIALS: APPEALS

New trial

**106.**—(1) Upon application made within fourteen days after the trial or, where the decision is not given at the trial, after the mailing of the notice of the decision to the party applying and upon good grounds being shown, the judge, after affording the other parties to the action an opportunity to be heard, may grant a new trial upon such terms as he thinks proper.

Extending  
time for  
application

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time

within fourteen days after the expiration of the first-mentioned fourteen days.

(3) Where the summons has not been personally served, the application may be made at any time within fourteen days after the judgment has come to the knowledge of the defendant.

Where  
personal  
service  
not affected

(4) Instead of granting a new trial, the judge may pronounce the judgment that in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly.

Judgment on  
application  
for new trial

(5) Either upon the application or upon granting a new trial, the judge may make such order staying proceedings as he considers proper. R.S.O. 1970, c. 439, s. 106.

Stay of  
proceedings

**107.** An appeal does not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties or their agents, and the judge shall note in his minutes whether or not the agreement was so filed, and the minutes are conclusive evidence upon that point. R.S.O. 1970, c. 439, s. 107.

Parties may  
agree not  
to appeal

**108.** Subject to section 107, an appeal lies to the Divisional Court from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted,

Appeal to  
Divisional  
Court

(a) in an action or garnishee proceeding where the sum in dispute exceeds \$500, exclusive of costs;

(b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$500, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$300;

(c) where the parties consent to an appeal; or

(d) where the effect of the decision is to determine that a general assessment made by a mutual insurance company is invalid, but the company, unless the Divisional Court otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event. R.S.O. 1970, c. 439, s. 108 (1); R.S.O. 1970, c. 439, s. 108 (2); 1977, c. 52, s. 10.

Appeal,  
where  
counter-  
claim

**109.** Where a claim and counterclaim arise out of the same transaction or occurrence and an appeal is brought from the judgment upon either, the judgment upon both is subject to review by the court. R.S.O. 1970, c. 439, s. 109.

Agents for  
service  
where right  
to appeal

**110.**—(1) Where an appeal lies, each party shall, before or at the trial, leave with the clerk a memorandum in writing of the name and place of residence of some person resident in the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of residence, is sufficient, and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at his office, and the clerk shall forthwith send, by registered mail, all papers so served upon him, to the person entitled thereto.

Case of  
judicial  
district

(2) This section does not apply to a provisional judicial district. R.S.O. 1970, c. 439, s. 110.

Certified  
proceedings,  
etc., to be  
furnished  
by clerk

**111.** The clerk shall, at the request of the appellant or his agent, certify under his hand to the Registrar of the Supreme Court at Toronto, the summons with all notices endorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the judge's charge as were made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, and shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as is required, and for every copy he is entitled to receive 5 cents for every 100 words. R.S.O. 1970, c. 439, s. 111.

Appeal

**112.**—(1) The appeal shall be made in the time and manner prescribed by the rules of court and the Chief Justice of the High Court may, after the appeal is perfected and where it appears to him that no issue of general interest is raised and that expedition and the interests of the parties would be thereby best served, order that the appeal be heard by a single judge of the Divisional Court and a decision of the judge shall be deemed to be a decision of the Divisional Court. 1977, c. 52, s. 11.

(2) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a judge of the Divisional Court. Stay of proceedings R.S.O. 1970, c. 439, s. 112 (2).

**113.** On an appeal to the Divisional Court under this Act, the Divisional Court has the same powers and duties as the Court of Appeal has in an appeal coming before it under the *County Courts Act*. Powers and duties of Divisional Court R.S.O. 1970, c. 439, s. 113 (1); R.S.O. 1980, c. 100 R.S.O. 1970, c. 439, s. 113 (2), *revised*.

**114.** The costs taxable between party and party of and incidental to an appeal are the actual disbursements, and no greater amount over and above actual disbursements than \$25 inclusive of counsel fee, and the costs of an appeal between solicitor and client are taxable on the county court scale. Taxable costs on appeal R.S.O. 1970, c. 439, s. 114.

**115.—(1)** Where the judge before whom an action is tried dies before giving judgment, or having reserved his judgment after having heard the evidence does not deliver judgment within six months thereafter, any party may, upon notice to all other parties, apply to the Chief Judge of the County and District Courts for an order directing that the action be reheard by such judge as he designates. Rehearing

(2) An order made under subsection (1) shall name the place where the action is to be reheard, and in making such order the chief judge may give such other directions as he considers fit. Idem

(3) No further evidence shall be received upon such rehearing except by leave of the court. Further evidence

(4) No proceedings in the action shall thereafter be taken without the order of the chief judge after notice. Further proceedings

(5) Upon such rehearing, the evidence, exhibits, and papers used at the trial shall be read, and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the court clerk in accordance with his findings. Judgment on rehearing



Costs of  
rehearing

(6) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid.

Appeal

(7) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at the trial. R.S.O. 1970, c. 439, s. 115.

#### JUDGMENTS; EXECUTIONS; TRANSCRIPTS

When money  
not paid  
pursuant  
to order,  
execution  
to issue

**116.**—(1) Where the judge gives judgment or makes an order for the payment of money and default is made in payment of the whole or of any part thereof, the party in whose favour the order has been made is entitled to execution against the goods and chattels and, subject to section 126, the land of the party in default. R.S.O. 1970, c. 439, s. 116 (1).

Form of  
execution

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment, as have been ordered to be paid and remain due, and shall pay such sum, costs and interest over to the clerk. R.S.O. 1970, c. 439, s. 116 (2); 1972, c. 107, s. 4 (1).

Rate of  
interest  
after  
judgment

(3) The interest payable under subsection (2) shall be at the same rate as may be levied under a writ of execution issued out of the Supreme Court, but a judge may order that no interest is payable in respect of moneys owing under a consolidation order that is not in default. 1977, c. 52, s. 12.

Jurisdiction  
of bailiff

(4) The bailiff of a small claims court has jurisdiction in the territorial jurisdiction of his own court to enforce execution and levy by distress and sale of the goods and chattels of the debtor the amount of any judgment and costs and to carry out all other process and proceedings to enforce payment of the judgment. 1972, c. 107, s. 4 (2).

Execution  
not to be  
postponed  
for more  
than fifty  
days

**117.** Except where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from the service of the summons, without the consent of the party entitled thereto, but, if it is proved to the satisfaction of the judge that a party is unable from sickness or other cause to

pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. R.S.O. 1970, c. 439, s. 117.

**118.** If there are cross judgments between the parties, the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered, and, if both sums are equal, satisfaction shall be entered upon both judgments. R.S.O. 1970, c. 439, s. 118.

Cross judgments may be set off

**119.** Except in actions brought under section 67, an execution or attachment shall not be executed out of the limits of the territorial jurisdiction of the court out of which it is issued. 1972, c. 107, s. 5.

Extent of writs of execution

**120.** Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff, before an actual sale of his goods and chattels, the amount to be levied or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. R.S.O. 1970, c. 439, s. 120.

Effect of payment of execution before sale

**121.—**(1) The clerk, immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment, shall forward by registered mail to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

Notice to plaintiff of *nulla bona* return

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from among the papers of the certificate is *prima facie* evidence against the clerk that the notice was not forwarded. R.S.O. 1970, c. 439, s. 121.

Registration certificate to be filed

**122.** Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction

Enforcing claims under R.S.O. 1980, c. 103 in small claims courts

of a small claims court is filed with a sheriff under the *Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the creditor may obtain from the sheriff a return according to the fact and file it with the clerk of the court in which the judgment was recovered, or, in the case of a certificate of a claim, with the clerk of the court of the division where the cause of action arose or where the debtor or one of the debtors, if more than one, resides, and the clerk shall enter the return in his procedure book, and in the latter case the claim thereupon becomes a judgment of the court for the unpaid balance due thereon appearing by the return and may be enforced in the same manner as a judgment of the court. R.S.O. 1970, c. 439, s. 122.

Revivor of judgment in case of death of party

**123.** In the case of the death of either or both of the parties to a judgment, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. R.S.O. 1970, c. 439, s. 123.

Execution, when dated and returnable

**124.**—(1) Every execution against goods shall bear the date of its issue and is returnable immediately after the execution thereof, and, if unexecuted, remains in force for three months, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for six months from the date of the renewal.

Priority of execution

(2) The execution so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the bailiff. R.S.O. 1970, c. 439, s. 124.

Judge may order an execution to issue before regular day

**125.** Where the judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait until the day appointed for the payment thereof before an execution can issue, the judge may order an execution to issue at such time as he considers just. R.S.O. 1970, c. 439, s. 125.

Executions against lands

**126.**—(1) Where the sum remaining unsatisfied on a judgment amounts to \$40 or more, the judgment creditor is entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall issue an execution against the land of the judgment debtor directed to the sheriff of a county.

(2) The execution has the same force and effect as an execution issued from a county court.

Effect of  
execution

(3) Where an execution against lands has been placed in the hands of the sheriff, he shall give notice thereof to the judgment debtor by registered mail addressed to him at his present or last known residence.

Notice  
to debtor

(4) The sheriff shall make a return thereof and pay any money made thereon to the clerk of the court out of which the execution issued.

Sheriff's  
return to be  
made to  
clerk

(5) Until the judgment is fully satisfied, the execution creditor may pursue the same remedy for the recovery thereof as if the judgment had been obtained in the county court. R.S.O. 1970, c. 439, s. 126 (1-5).

Further  
proceedings  
by execution  
creditor

(6) The writ, if unexecuted, remains in force for six years only from its issue, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for six years from the date of the renewal. 1972, c. 107, s. 6.

Duration  
and renewal  
of writ

(7) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month and year of the renewal, and a writ so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the sheriff.

Formal  
effect of  
renewal

(8) The production of an execution purporting to be marked with the memorandum is *prima facie* evidence of its having been renewed.

Evidence of  
renewal

(9) The sheriff is entitled to the same fees as upon a writ of execution against land issued from a county court.

Fees on  
writ against  
lands

(10) Where land is on hand for want of buyers, a sheriff to whom the execution is directed may endorse thereon a return of "land on hand for want of buyers" and shall return a certificate of the endorsement to the clerk of the small claims court from whose office the execution issued in lieu of the writ, and the endorsement and the certificate so returned shall be deemed to be a return of the writ, and thereupon a writ of *venditioni exponas* may be issued by the clerk for the sale of the land, and the original execution remains in force for the residue. R.S.O. 1970, c. 439, s. 126 (7-10).

Certificate  
in lieu of  
execution



Bailiff after seizure of goods to endorse date of seizure and give notice of sale

**127.** The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately and at least eight days before the time appointed for the sale put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice, signed by himself, of the time and place in the division when and where it will be exposed for sale, and the notice shall describe the property taken. R.S.O. 1970, c. 439, s. 127.

Goods not to be sold until 8 days after seizure

**128.** The property so taken shall not be sold until the expiration of eight days at least after the seizure thereof, except upon the request in writing under the hand of the party whose property has been seized. R.S.O. 1970, c. 439, s. 128.

Bailiff's fees when action settled

**129.** Where a bailiff has seized property under an execution or attachment and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, has a lien therefor upon so much of the property as will reasonably satisfy such fees and disbursements, but, in the event of a dispute as to the proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper amount is certified by the judge, and on such payment into court the lien ceases. R.S.O. 1970, c. 439, s. 129.

Transcript of unsatisfied judgment

**130.**—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send it to the clerk of any other small claims court, whether in the same or in any other county, with the certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which it was recovered, and the post-office address of the person applying for the transcript, and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and the certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose, and all proceedings may be taken for enforcing the judgment in such last-mentioned court.

Proceedings stayed

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the judge, unless the

person who obtained the transcript, or his agent, makes and files with the clerk an affidavit stating,

- (a) that the judgment remains unsatisfied in whole or in part;
- (b) that the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment,

and, upon the affidavit being filed, the clerk may issue such other process as the applicant is entitled to and may direct.

(3) Where a person has a judgment in the Supreme Court or in a county or district court and he desires to garnish the wages of the judgment debtor, he may file a certified copy of the judgment in the small claims court having jurisdiction to issue a direction to garnish the wages of the judgment debtor, and thereupon the clerk of that court shall enter the judgment in the same manner as a transcript of judgment from another small claims court, and thereafter directions to garnish the wages of the judgment debtor may issue and subsequent proceedings thereon be taken as though the direction to garnish had been issued under a small claims court judgment.

Transfer of  
Supreme  
Court and  
county court  
judgments

(4) Where directions to garnish are issued under subsection (3) and judgment is given against the garnishee, the judgment shall not be for an amount exceeding the jurisdiction of the court in a personal action. R.S.O. 1970, c. 439, s. 130.

Maximum  
amount of  
judgment  
against a  
garnishee

#### JUDGMENT SUMMONS: SHOW CAUSE SUMMONS

**131.**—(1) A party having an unsatisfied judgment may procure a judgment summons from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court.

Judgment  
summons

(2) Where a judgment debtor resides or carries on business in a city where there are two or more small claims courts having territorial jurisdiction within the limits of the city, a judgment summons may issue out of any such court in which the judgment has been recovered or in which a transcript of judgment has been entered.

Judgment  
summons,  
issue of

(3) Subsection (2) does not apply to small claims courts in The Municipality of Metropolitan Toronto.

Metropolitan  
Toronto

Affidavit  
required  
before  
judgment  
summons

(4) Before the summons is issued the judgment creditor, or his agent, shall make and file with the clerk an affidavit stating,

(a) that the judgment remains unsatisfied in whole or in part; and

(b) in the case of a second or subsequent summons, that the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof. R.S.O. 1970, c. 439, s. 131 (1-4).

Examination  
of judgment  
debtor

(5) The summons shall be served by mail or, if directed by the judge, personally upon the judgment debtor at least eight days before the return day, and, if he appears, he may be examined upon oath as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability that formed the subject of the action, and as to the means and expectation he then had, and as to the property and means he still has of discharging the judgment debt, and as to the disposal he has made of any property. R.S.O. 1970, c. 439, s. 131 (5); 1977, c. 52, s. 13 (1).

Examination  
of witnesses

(6) The party obtaining the summons and all witnesses whom the judge thinks requisite may be examined upon oath, touching the inquiries. R.S.O. 1970, c. 439, s. 131 (6).

Place of  
examination

(7) The examination shall not be held in open court unless the judge is satisfied there is good reason to hold it in public. 1977, c. 52, s. 13 (2).

Order as to  
payment

(8) After the examination or upon written consent signed by the judgment debtor or his solicitor, the judge may make such order as to payment of the judgment and as to the time and manner thereof as he considers proper.

Costs

(9) The costs of the summons and of all proceedings thereon shall be costs in the action, unless the judge otherwise directs.

Party  
examined  
and dis-  
charged not  
to be again  
summoned

(10) If, after the examination, the judge dismisses the summons, no further judgment summons shall issue out of the same court against the judgment debtor at the suit of the same or any other creditor for a period of six months, except upon an affidavit satisfying the judge that since the examination the party has acquired the means of paying or that he did not then make a full disclosure of his estate, effects and debts upon the examination. R.S.O. 1970, c. 439, s. 131 (8-10).

**132.**—(1) A party who has examined a judgment debtor under a judgment summons may procure a show cause summons from the court out of which the judgment summons issued if the judgment creditor or his agent makes and files with the clerk of the court an affidavit deposing,

Show cause  
summons

- (a) the particulars of the judgment and the amount thereof that remains unsatisfied;
- (b) the particulars of the examination upon the judgment summons and of the order for payment that was made; and
- (c) that the judgment debtor is in default under the order for a period of not less than fourteen days and the particulars thereof. R.S.O. 1970, c. 439, s. 132 (1).

(2) The summons shall be served by mail or, if directed by the judge, personally upon the judgment debtor at least eight days before the return day and, if he appears, he may be examined upon oath as to his default under the order for payment. R.S.O. 1970, c. 439, s. 132 (2); 1977, c. 52, s. 14.

Service

(3) Where the circumstances of the debtor have changed, the judge may vary the order made under section 131. R.S.O. 1970, c. 439, s. 132 (3).

Variation  
of order

**133.** If the party summoned,

Committal  
for  
contempt

- (a) does not attend as required by the summons, or at any subsequent date to which the hearing or examination is adjourned, or give a sufficient reason for not attending; or
- (b) attends and refuses to be sworn or to answer such questions as in the opinion of the judge are proper,

the judge may order him to be committed to a correctional institution in the county in which he resides or carries on business, for any period not exceeding forty days. R.S.O. 1970, c. 439, s. 133.

**134.** A party failing to attend in answer to a judgment summons or show cause summons is not liable to be committed for the default, unless the judge is satisfied that his non-attendance is wilful. R.S.O. 1970, c. 439, s. 134.

When party  
may be  
committed  
for non-  
attendance

**135.**—(1) Where a judge has ordered a judgment debtor to be committed to a correctional institution, the order shall be enforced by the bailiff, unless the judge directs that the

Enforce-  
ment of  
committal  
order



judgment debtor appear before him at a named time and place to explain his contempt, in which case notice thereof shall be sent to the judgment debtor by mail or served personally as directed by the judge. R.S.O. 1970, c. 439, s. 135 (1); 1977, c. 52, s. 15.

Appearance  
to explain  
contempt

(2) Where the judgment debtor appears to explain his contempt,

- (a) if the judge is of opinion that the default was wilful, he shall order the bailiff to enforce the warrant of commitment; or
- (b) if the judge is of opinion that the default was not wilful, he shall order the judgment debtor to attend for examination at the next sittings of the court to be held for the hearing of judgment summonses and, in the event that the judgment debtor does not so attend, the judge presiding at the sittings may order that he be forthwith committed to a correctional institution.

Non-  
appearance  
to explain  
contempt

(3) Where the judgment debtor does not appear at the time and place named in the notice, the judge may direct that the warrant of commitment be enforced. R.S.O. 1970, c. 439, s. 135 (2, 3).

Costs  
allowed  
him in  
certain  
cases

**136.** Where at the hearing upon a judgment summons or show cause summons it appears to the judge by the examination of the party, or otherwise, that he ought not to have been summoned, or, where the judgment creditor or his agent does not appear, the judge may award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. R.S.O. 1970, c. 439, s. 136.

Warrant of  
commitment

**137.—**(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment directed to the bailiff of any court in the county and the bailiff may, by virtue of the warrant, take the party and deliver him to the superintendent of the correctional institution in which he has been directed to be imprisoned.

Constables,  
etc., to  
execute  
warrants

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the superintendent of the correctional institution shall receive and keep the party therein until discharged under this Act, or otherwise, in due course of law. R.S.O. 1970, c. 439, s. 137.

**138.** A party shall be discharged out of custody,

When debtor  
in custody  
shall be  
discharged

(a) by order of the judge; or

(b) at the expiration of the time prescribed in the warrant of commitment. R.S.O. 1970, c. 439, s. 138.

**139.**—(1) The judge may rescind or alter the order for payment made upon a judgment summons or show cause summons and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable.

Alteration  
of order  
for  
payment

(2) The judge may rescind or alter or stay the operation of any order of commitment made by him, whether or not it has been acted on. R.S.O. 1970, c. 439, s. 139.

Order of  
commitment

**140.**—(1) A party having an unsatisfied judgment against a corporation may issue a summons calling upon any officer of the corporation to attend before the judge and submit to examination as to the property and assets of the corporation and its dealings with them, and, if the person summoned fails to attend or to submit to examination, he is liable to be committed to the correctional institution in the county for any period not exceeding forty days.

Examination  
of officer  
of company

(2) The summons shall be issued and served as nearly as may be in the same manner as in the case of a summons to a judgment debtor. R.S.O. 1970, c. 439, s. 140.

Summons

#### GARNISHMENT PROCEEDINGS

**141.** For the purposes of garnishment proceedings under this Act,

Interpre-  
tation

(a) money that is earned or owing, although not yet due or payable, shall be deemed to be "owing or accruing"; and

(b) a reference to the amount of the judgment creditor's judgment or the plaintiff's claim, or words of like import, shall be deemed to include the amount of costs that have been incurred. R.S.O. 1970, c. 439, s. 141.

**142.**—(1) After judgment has been recovered, the clerk of the court in which the judgment was recovered or the clerk of the court to which the judgment has been transcribed shall,

Garnishment  
after  
judgment

upon the filing of an affidavit as required by subsection (2), issue a direction to garnish directing that all debts owing or accruing to the judgment debtor be attached to satisfy the judgment. R.S.O. 1970, c. 439, s. 142 (1).

Material on  
application

(2) Upon the making of the application, there shall be filed with the clerk an affidavit stating,

- (a) the date and amount of the judgment and the amount remaining unsatisfied;
- (b) that the deponent has reason to believe that the person sought to be named as garnishee,
  - (i) resides or carries on business in the county where the court is located, and
  - (ii) is indebted to the judgment debtor; and
- (c) where the judgment creditor intends to effect service of the direction by registered mail, the address where the judgment debtor and garnishee reside or carry on business. R.S.O. 1970, c. 439, s. 142 (2), *revised*.

Preparation  
of affidavit  
and  
direction

(3) The direction to garnish, which shall be in the prescribed form, and the affidavit used upon the application therefor shall be prepared,

- (a) where the judgment creditor has a solicitor or agent, by the solicitor or agent; and
- (b) where the judgment creditor has no solicitor or agent, by the judgment creditor or, if he so requests, by the clerk of the court. R.S.O. 1970, c. 439, s. 142 (3).

Notices  
upon a  
direction

**143.** The following notices shall appear upon every direction to garnish:

#### A

#### NOTICE TO GARNISHEE

Within ten days after the mailing to you or personal service upon you of this direction you are required to either,

- (a) pay to the clerk of the court the amount owing or accruing from you to the judgment debtor or sufficient thereof to satisfy the judgment of the judgment creditor including costs; or

- (b) file with the clerk of the court a statement signed by you stating,
- (i) that at the time of the receipt by you of this direction to garnish there was no money owing or accruing from you to the judgment debtor, and
  - (ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirement above set out, the judgment creditor may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of his judgment against the judgment debtor and for his costs.

Where the amount sought to be garnished is wages, this notice shall be read subject to the *Wages Act*.

#### B

##### NOTICE TO JUDGMENT DEBTOR

At any time within ten days after the mailing to or personal service upon you of this direction you may dispute this direction to garnish or any of the statements therein contained by filing with the clerk of the court a notice setting out the particulars of your dispute.

#### C

##### NOTICE TO ALL PARTIES TO THIS PROCEEDING

Any of the parties to this proceeding, that is to say, any judgment creditor, judgment debtor or garnishee, may in writing request the clerk of the court to place it upon the trial list in order that the rights of any such party may be determined.

R.S.O. 1970, c. 439, s. 143.

**144.**—(1) The direction to garnish shall be served upon both the judgment debtor and the garnishee as soon as is convenient, and, in any event, not more than fifteen days after its issue.

Service of  
direction to  
garnish

(2) Service may be effected,

Method of  
service

(a) by personal service; or

(b) by registered mail addressed to each or either of them at the address set out in the affidavit referred to in section 142. R.S.O. 1970, c. 439, s. 144.



Effect of  
service

**145.** Service upon the garnishee of the direction to garnish has the effect, subject to the rights of other persons, of attaching and binding in his hands all debts then owing or accruing from him to the judgment debtor, and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied is to that extent a discharge of the debt. R.S.O. 1970, c. 439, s. 145.

Payment  
out

**146.** Subject to any request for a hearing by a judge, money paid into court by a garnishee pursuant to a direction to garnish shall, upon the filing with the clerk of an affidavit proving service upon the judgment debtor of the direction to garnish, be paid out to the judgment creditor, but no such payment to the judgment creditor shall be made until fifteen days after the date of such service. R.S.O. 1970, c. 439, s. 146.

Payment  
to any but  
primary  
creditor void

**147.** Payment by the garnishee after service on him of the direction to garnish, otherwise than into court, except by leave of the judge, is, to the extent of the judgment creditor's claim and costs, void, and the garnishee is liable to again make payment to the extent of the judgment creditor's claim, unless the judge otherwise orders. R.S.O. 1970, c. 439, s. 147.

Hearing  
required

**148.**—(1) Where a party requests the clerk in writing to place the proceeding upon the trial list, the clerk shall place it upon the list for the first court day in respect of which notice as herein required may be given, and at least ten days before such day shall mail notice thereof by registered mail to each of the parties to the proceeding.

Disposition  
at hearing

(2) Upon the hearing, the judge shall determine the matter in a summary manner and make such order as he considers fit, and, where the garnishee has defaulted under the notice lettered A set out in section 143, he may give judgment in favour of the judgment creditor against the garnishee.

Defences of  
garnishee

(3) Upon a hearing, in determining any question of liability as between the judgment debtor and the garnishee, the judge shall have regard to any statutory or other defence or set-off that has been set up by the garnishee. R.S.O. 1970, c. 439, s. 148.

Adverse  
claims

**149.** Where a person other than the judgment creditor or judgment debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case requires. R.S.O. 1970, c. 439, s. 149.

**150.** Where a direction to garnish has been issued and no moneys are realized thereon, the costs thereof shall not be costs against the judgment debtor, unless the judge, who may give his direction upon an *ex parte* application, otherwise directs. R.S.O. 1970, c. 439, s. 150.

Costs where garnishee unsuccessful

#### CONSOLIDATION ORDERS

**151.**—(1) A judgment debtor against whom more than two small claims court judgments remain unsatisfied in whole or in part may apply to the judge of the court of the division in which he resides for a consolidation order.

Application for consolidation order

(2) Upon the application, the judgment debtor shall file his own affidavit setting forth,

Material on application

- (a) the names and addresses of the creditors who have obtained judgment against him in a small claims court, the date, amount and other particulars of each judgment, and the amount that he owes to each such judgment creditor;
- (b) the amount of his income from all sources, naming them;
- (c) his business or occupation, and the address of his employer;
- (d) a statement of his family or like obligations and of any other relevant facts.

(3) Notice of the time and place of the hearing of the application shall be given by the judgment debtor to the creditors mentioned in clause (2) (a) by registered mail or personal service at least eight days before the day fixed for the hearing, and, upon the hearing, the judgment debtor shall file an affidavit setting forth that such creditors have been given such notice.

Idem

(4) Upon the application, the judge may make a consolidation order or dismiss the application.

Disposition of application

(5) Before making a consolidation order, the judge shall determine the average weekly income of the judgment debtor for the three-month period immediately before the making of the application, making all proper allowances where the occupation is of a seasonal nature, and shall order the following

Computation of amounts

amounts, calculated to the nearest dollar, to be paid into court under the consolidation order, subject always to any variation that, because of extenuating or other special circumstances, the judge considers proper:

1. 15 per cent of the average weekly income, where the average weekly income does not exceed \$30.
2. 20 per cent of the average weekly income, where the average weekly income exceeds \$30 and does not exceed \$40.
3. 25 per cent of the average weekly income, where the average weekly income exceeds \$40 and does not exceed \$50.
4. 30 per cent of the average weekly income, where the average weekly income exceeds \$50.

Idem

(6) Where the amounts ordered to be paid under subsection (5) have been varied because of extenuating or other special circumstances such amounts shall not be less than 10 per cent of the average weekly income of the judgment debtor.

Particulars  
of order

(7) A consolidation order shall set out,

- (a) a list of the small claims court judgments outstanding against the judgment debtor, indicating in each case the date, court and amount and the amount still outstanding;
- (b) the amounts to be paid into court by the judgment debtor under the consolidation order; and
- (c) the times of such payments. R.S.O. 1970, c. 439, s. 156.

Filing order  
and copies

**152.**—(1) The original consolidation order shall be filed with the clerk of the court in which it was made and a copy thereof, certified by such clerk, may be filed by the judgment debtor in any other small claims court.

Consolida-  
tion account

(2) Upon the filing of the original consolidation order, the clerk shall open a consolidation account in the name of the

judgment debtor and shall credit thereto all payments made under the consolidation order. R.S.O. 1970, c. 439, s. 157.

**153.**—(1) Where a judgment creditor objects to the amount directed to be paid or to any other judgment creditor being included in the consolidation order, he may apply to the judge for an appointment to determine the matter. Objection by creditor

(2) Notice of the appointment shall be sent by registered mail to such persons as the judge directs, and, upon the appointment, the judge shall deal with the matter in a summary manner, and his determination is final. R.S.O. 1970, c. 439, s. 158. Judge's determination

**154.**—(1) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred before the date of the consolidation order, the judgment creditor may deliver to the clerk of the court in charge of the consolidation order a notice of his judgment, and his name shall forthwith be added to the consolidation order and he shall thereafter share in the distribution under the consolidation order. Debt incurred before order

(2) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred after the date of the consolidation order, the consolidation order thereupon terminates. Judgment after order

(3) Where the judgment debtor applies for a further consolidation order, the judge shall examine the nature of the further debt or debts incurred and may make such order. R.S.O. 1970, c. 439, s. 159. Further order

**155.** A judgment debtor in respect of whom a consolidation order has been made may, either before default has occurred or not later than the tenth day after default has occurred, apply to the judge for a stay of proceedings, and, upon notice of the hearing being sent by registered mail to all judgment creditors, or such of them as the judge directs, the judge shall hear the application and may by order grant such stay of proceedings as he considers fit or he may dismiss the application. R.S.O. 1970, c. 439, s. 160. Stay of proceedings

**156.**—(1) Subject to subsection (2), no garnishment summons and no proceedings subsequent to judgment, except an Effect of order



execution against lands, shall be taken or continued against the judgment debtor named therein in a small claims court in which a consolidation order or a certified copy thereof is filed.

**Default**

(2) Where a judgment debtor is in default for a period of twenty days under a consolidation order, the consolidation order is thereupon terminated, subject to any order under section 155 that may have been made before such date, and any judgment creditor named in the consolidation order may obtain from the clerk of the court in which the consolidation order was made a certificate of termination for the purpose of filing it in any court in which a copy of the consolidation order is filed.

**Notice of termination**

(3) Where a consolidation order has been terminated under subsection (2), the clerk of the court shall notify, by mail, the judgment creditors named in the order of its termination.

**Stay for 1 year**

(4) Where a consolidation order has terminated under subsection (2), no further consolidation order shall be made in respect of such judgment debtor for a period of one year from the date of such termination. R.S.O. 1970, c. 439, s. 161.

**Addition of Supreme and county court judgments to consolidation orders**

**157.** Notwithstanding subsection 155 (1), where a judgment is transferred under subsection 130 (3) and a consolidation order has been made against the judgment debtor, the clerk of the court shall add the judgment to the consolidation order but only to the extent of \$400 where the court is in a county and \$800 where the court is in a provisional judicial district. R.S.O. 1970, c. 439, s. 162.

**Property in moneys**

**158.—**(1) All moneys paid into a consolidation account belong to the judgment creditors named in the consolidation order who shall share *pro rata* in the distribution of the moneys.

**Distribution**

(2) The clerk shall distribute the moneys paid into the consolidation account on account of the judgments at least once every six months, and at the time of distribution shall prepare a distribution sheet showing the total amount paid and the distribution thereof.

**Basis of distribution**

(3) The distribution shall be on a *pro rata* basis according to the amount of each of the judgments filed with the clerk, or as nearly so as is practicable to the nearest dollar.

(4) The clerk is entitled to a fee of 10 per cent of the amount paid in of which amount 5 per cent shall be charged to the judgment creditors and 5 per cent to the judgment debtor. Fees of clerk

(5) The amount of the postage paid shall be deducted from the amounts paid to the judgment creditors. R.S.O. 1970, c. 439, s. 163. Postage to be deducted

#### ABSCONDING DEBTORS

**159.** Where a person indebted in a sum not less than \$4, either for debt or damages arising upon a contract, and recoverable in or upon a judgment of a small claims court, Warrant for attachment

- (a) absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or
- (b) attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or
- (c) keeps himself concealed to avoid service of process,

the clerk of any small claims court, upon the application of the creditor and upon his filing an affidavit in the prescribed form made by him, his agent or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court from which it issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person in the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant with costs, and to return the warrant forthwith to the court. R.S.O. 1970, c. 439, s. 164.

**160.** The affidavit mentioned in section 159 may be taken before a judge or a justice of the peace, and, upon the filing thereof with him, he may issue a warrant under his hand and seal in the form mentioned in section 159, and he shall forthwith transmit the affidavit to the clerk of the court in whose division it was taken, to be by him filed. R.S.O. 1970, c. 439, s. 165. When judge or justice of the peace may issue attachments, etc.

Bailiff or constable to seize and make inventory

**161.** Upon receipt of a warrant by the bailiff or constable and upon being paid his lawful fees, including the fees for appraisalment, he shall forthwith execute the warrant and make a true inventory of all the estate and effects that he seizes and takes by virtue thereof, and shall, within twenty-four hours after seizure, call to his aid two freeholders, who, being first sworn by him to appraise the estate and effects seized, shall then appraise them, and the bailiff or constable shall forthwith return the inventory attached to the appraisalment to the clerk. R.S.O. 1970, c. 439, s. 166.

Proceedings may be continued in same court

**162.** In an action commenced by attachment, the proceedings may be conducted to judgment and execution in the court of the division in which the warrant issued. R.S.O. 1970, c. 439, s. 167.

Proceedings commenced before attachment

**163.** Where proceedings have been commenced before the issue of an attachment, they may be continued to judgment and execution in the court in which the proceedings were commenced. R.S.O. 1970, c. 439, s. 168.

Property attached may be sold under execution

**164.** The property attached upon a warrant of attachment is liable to seizure and sale under the execution to be issued upon the judgment, and, if the property was perishable and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R.S.O. 1970, c. 439, s. 169.

Plaintiff not to divide cause of action

**165.** A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing it within the provisions of sections 159 to 163, but a plaintiff having a cause of action for which, but for the amount of the claim, an attachment might be issued, may abandon the excess, and the judgment is a full discharge of all demands in respect of the cause of action, and the entry of judgment shall be made accordingly. R.S.O. 1970, c. 439, s. 170.

If several attachments issued  
R.S.O. 1980, c. 2

**166.** Subject to the *Absconding Debtors Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the debtor in proportion to the amounts actually due upon their judgments, and no distribution shall take place until, in the opinion of the judge, reasonable time has been allowed to the creditors to proceed to judgment. R.S.O. 1970, c. 439, s. 171.

If goods insufficient to satisfy claims of all attaching creditors

**167.** Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share, unless he sued out his attach-

ment and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable within one month next after the issue of the first attachment. R.S.O. 1970, c. 439, s. 172.

**168.**—(1) Where property is attached under sections 159 to 167 by a constable, it shall be handed over forthwith to the bailiff of the court out of which the warrant of attachment issued or into which it was made returnable.

Goods seized  
by constable  
to be  
delivered  
to bailiff

(2) Property attached by a bailiff under sections 159 to 167 and the property delivered to him under subsection (1) shall remain in the custody of the bailiff, and he shall keep it until it is disposed of according to law. R.S.O. 1970, c. 439, s. 173.

Custody of  
goods seized  
under  
attachment

**169.**—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment, if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, whenever thereunto required by order of the judge, pay into court a sum sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored.

On what  
terms goods  
attached  
may be  
restored

(2) Subject to section 166, if, within one month after the property has been attached, the person against whom the attachment has issued, or some person on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been recovered, and the property attached, or so much thereof as is necessary to satisfy the judgment and costs, may be sold for the satisfaction thereof, or, if the property has been previously sold as perishable, so much of the proceeds thereof as are necessary may be applied to satisfy the judgment and costs. R.S.O. 1970, c. 439, s. 174.

Sale of goods  
if the debtor  
does not  
appear and  
give security

**170.**—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of residence or business of the defendant with any grown person residing there, or by leaving the copy at such place if no grown person is there found.

Proceedings  
against  
debtors  
where pro-  
cess not  
previously  
served



## Costs

(2) If it appears to the judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the judge shall order that no costs be allowed to the creditor. R.S.O. 1970, c. 439, s. 175.

Perishable  
goods, how  
disposed of  
R.S.O. 1980,  
c. 2

**171.** Subject to the *Absconding Debtors Act*, where perishable property has been attached, the bailiff who has the custody thereof, it having been first appraised, may, at the request of the attaching creditor, expose and sell it at public auction to the highest bidder, giving at least eight days notice, at the office of the clerk and at two other public places in his division, of the time and place of sale, if the property attached will admit of being so long kept, otherwise he may sell it at his discretion. R.S.O. 1970, c. 439, s. 176.

Creditors  
may be  
required to  
indemnify  
the  
defendant

**172.—**(1) It is not compulsory upon the bailiff or constable to attach, or upon the bailiff to sell, perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff, in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale, in case judgment is not obtained by him, and the bond shall be filed with the clerk.

Application  
of proceeds  
of sale

(2) The money made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. R.S.O. 1970, c. 439, s. 177.

Enforcing  
security  
given  
under Act

**173.—**(1) A bond given in the course of any proceeding under this Act may be sued on in any small claims court of the county in which it was executed, notwithstanding that the penalty in the bond exceeds the sum of \$400.

Delivery of  
bond to  
party  
entitled

(2) The bond shall be delivered to any person entitled to it, upon the order of the judge, to be enforced or cancelled as the case requires. R.S.O. 1970, c. 439, s. 178.

## PARTNERSHIPS AND SPECIAL NAMES

One or more  
of persons  
jointly liable  
may be sued

**174.—**(1) In the case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have been sued or served, without prejudice to the right of the person against whom execution issues to

demand contribution from any other person jointly liable with him.

(2) Where a judgment has been obtained against one or more of several partners under subsection (1) and the judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm as well as that of any defendant who has been served.

Bailiff may seize property of firm on certificate of judge

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time the cause of action accrued.

Partners sued in name of firm

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at the principal place in Ontario of the business of the partnership or upon any person having control of the partnership business there, and, subject to subsections (6) and (7), such service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served.

Service on partners

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names and addresses of the persons who are co-partners in any firm that is a party to the action by the firm name, to be furnished in such manner as the judge may direct.

Order to furnish names and addresses

(6) In the case of a partnership that to the knowledge of the plaintiff has been dissolved before action, the summons shall be served upon every person in Ontario sought to be made liable.

When partnership dissolved

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner.

Notice of capacity in which person served

(8) Debts owing from a firm carrying on business in Ontario may be attached although one or more members of the firm may be resident out of Ontario, if some person having the control or management of the partnership business or a member of the firm in Ontario is served with the attaching order.

Attachment of debts due by firm

Execution  
against  
partners

**175.**—(1) Where a judgment is against a firm, execution may, subject to section 176, issue against the property of,

- (a) the partnership;
- (b) any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;
- (c) any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence.

Leave to  
issue  
execution  
against  
other  
members

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the judge may give such leave if the liability is not disputed, or, if disputed, after the liability has been determined in such manner as he may direct. R.S.O. 1970, c. 439, s. 180.

Effect of  
judgment  
against firm

**176.** Except as against the property of the partnership, a judgment against a firm does not render liable, release, or otherwise affect any member thereof who was out of Ontario when the summons was issued and who has not entered a defence to the action, unless he has been made a party under section 86 or has been served in Ontario after the summons was issued. R.S.O. 1970, c. 439, s. 181.

Persons  
carrying on  
business in  
Ontario  
under  
another  
name  
R.S.O. 1980,  
c. 371

**177.**—(1) Subject to the *Partnerships Registration Act*, a person, whether or not a British subject and whether residing in or out of Ontario, carrying on business in Ontario under a name or style other than his own name may sue and be sued in such name or style.

Leave not  
required

(2) Leave is not necessary to issue the summons.

Service of  
summons

(3) The summons may be served upon the person so carrying on business if he is in Ontario, or at his place of business in Ontario, or, if there are several such places, at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service is equivalent to personal service on the person so sued.

Notice of  
character in  
which person  
served

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as the person having the control or management of it or in both characters, and in default of such notice he shall be deemed to be served as the person carrying on the business.

(5) A party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person who at the time of the accruing of the cause of action was, carrying on business under such name or style, to be furnished in such manner as the judge may direct.

Procuring  
name and  
address of  
person  
carrying on  
business

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in such name or style.

Person  
served to  
appear in his  
own name

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence does not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued.

Defence  
under  
protest

(8) Where a summons is served under subsection (3) on a person having the control or management of but not carrying on the business, a dispute by him is not necessary.

When  
person  
served is  
not carrying  
on the  
business

(9) A judgment or order in the action may be enforced by execution against,

Enforcement  
of judgment,  
what  
property  
exigible

(a) the property of the person so sued, used or employed in or in connection with the business; and

(b) the property in Ontario of the person so sued, if he has entered a defence in the action or has been adjudged to be the person carrying on the business or has been personally served with the summons in Ontario and has failed to enter a defence.

(10) If the person so sued has not entered a dispute or has not been personally served or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person in Ontario whom the plaintiff alleges to be the person carrying on the business, and the judge may give such leave if the liability is not disputed, or, if disputed, after the liability has been determined, in such manner as the judge may direct. R.S.O. 1970, c. 439, s. 182.

Issuing  
execution  
against  
person  
alleged  
to be carry-  
ing on the  
business

#### GENERAL

**178.**—(1) The Inspector shall,

Duties of  
Inspector

(a) make a personal inspection of every small claims court and of the books and papers thereof;



- (b) see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a correct manner, at a suitable time and in proper form and order, and that the papers and documents are properly classified and preserved;
- (c) see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk;
- (d) see that lawful fees only are taxed or allowed as costs;
- (e) see that proper security is furnished and maintained on behalf of every clerk and bailiff; and
- (f) report upon all such matters to the Lieutenant Governor.

Delegation  
of authority  
by Inspector

(2) The Inspector, with the approval of the Lieutenant Governor in Council, may delegate to any clerk or officer in his office any power or duty conferred or imposed upon the Inspector under this Act, and for such purpose every such person shall have and may exercise all the powers of the Inspector. R.S.O. 1970, c. 439, s. 183.

Destruction  
of documents

**179.** Where books, documents or papers have been preserved in a small claims court for so long that it appears that they need not be preserved any longer, the Chief Judge of the County and District Courts may make an order authorizing the Inspector to cause their destruction or other disposition. 1977, c. 52, s. 17.

Power of  
Inspector  
in making  
inquiry into  
conduct of  
officers

**180.** Where the Inspector considers it expedient to institute an inquiry into the conduct of a clerk or bailiff, he may require him and any other person to give evidence under oath, and for that purpose he has the same power as any court has in civil cases to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. R.S.O. 1970, c. 439, s. 185.

Contempt  
of court

**181.** Every person who wilfully insults the judge or any officer of a small claims court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance in the courtroom or within hearing of the court, is guilty of an offence and any bailiff or officer of the court may, by direction of the judge, take the offender into custody

and bring him before the judge, and the judge may impose upon him a fine of not more than \$20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to a correctional institution in the county for a period of not more than one month, unless the fine and costs with the expense attending the commitment are sooner paid. R.S.O. 1970, c. 439, s. 186.

**182.**—(1) Every person who interferes with a bailiff or officer or his deputy or assistant while in the execution of his duty, or makes or attempts to rescue any property seized or attached under process of the court, is guilty of an offence and liable to a fine of not more than \$20, to be recovered by order of the court or on conviction before a provincial offences court, and is also liable to be imprisoned, by order of the court or provincial offences court, for any term of not more than three months. Resisting  
officers

(2) The bailiff or officer, or any peace officer, may take the offender into custody, with or without warrant, and bring him before the court or provincial offences court. R.S.O. 1970, c. 439, s. 187. Arrest of  
offenders

**183.** A fine imposed by a court under this Act may be enforced by the court's order in like manner as a judgment. R.S.O. 1970, c. 439, s. 188. Enforcing  
payment  
of fines

**184.** A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making it be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him, but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. R.S.O. 1970, c. 439, s. 189. Distress not  
to be deemed  
unlawful,  
etc., by  
reason of  
defect in  
proceedings

**185.** Nothing in this Act authorizes the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees. R.S.O. 1970, c. 439, s. 190 (2). Limitations  
as to costs

**186.** No proceedings shall be quashed or vacated for any matter of form. R.S.O. 1970, c. 439, s. 191. Defects in  
form

**187.** Unless otherwise provided, every notice required by this Act shall be in writing. R.S.O. 1970, c. 439, s. 192. Notices to  
be in writing

Before whom  
affidavits  
may be  
sworn

**188.** Affidavits may be sworn before a clerk or deputy clerk, or before a justice of the peace, notary public or commissioner for taking affidavits. R.S.O. 1970, c. 439, s. 193 (1).

Changing  
date in  
process

**189.** Where a change in the date of a hearing or other proceeding is necessary because of failure to effect service or for any other reason, the clerk may change the date or dates appearing in a summons, judgment summons, subpoena or other notice or process. R.S.O. 1970, c. 439, s. 194.

Rules and  
regulations

**190.—(1)** The Lieutenant Governor in Council may make rules and regulations,

- (a) prescribing the small claims courts that shall be maintained, the territorial limits of the divisions and the place within each division where the court office shall be located;
- (b) designating small claims courts where clerks, referees, bailiffs and other employees necessary for the operation of the courts may be appointed under the *Public Service Act* and the provisions of this Act and the regulations respecting the retention of fees do not apply to persons so appointed;
- (c) prescribing fees payable to the Crown and to clerks, referees, bailiffs, appraisers, witnesses and for any other services performed under this Act;
- (d) regulating the sittings of the courts and providing for fixing the times and places of such sittings;
- (e) prescribing the duties of clerks and bailiffs and requiring clerks to furnish to judges information regarding sittings of the court;
- (f) prescribing the duties, responsibilities and functions of referees;
- (g) fixing the remuneration of judges appointed under section 11 and providing for the benefits to which such judges are entitled, including,
  - (i) leave of absence and vacations,
  - (ii) sick leave credits and payments in respect of such credits,

R.S.O. 1980,  
c. 418

- (iii) pension benefits for judges and their widows and surviving children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as judges under section 11 were entitled under the *Public Service Act* or the *Public Service Super-annuation Act* at the time of their appointment under section 11;

R.S.O. 1980,  
cc. 418, 419

- (h) prescribing the returns to be made and the information to be furnished by clerks and bailiffs;
- (i) prescribing forms and providing for their use;
- (j) providing for the service of summonses and other process issued out of small claims courts by prepaid mail or otherwise and prescribing the manner of proving service and such other matters as may be necessary or incidental thereto;
- (k) providing for the continuation of courts where a union of counties is dissolved or a county is separated from a union of counties and for the continuation or transfer of actions and judgments therein;
- (l) prescribing and governing the security to be furnished by clerks and bailiffs for the due performance of their duties and, in connection therewith, providing for the Inspector to enter into agreements with any company authorized to carry on the business of fidelity insurance in Ontario;
- (m) regulating any matter relating to the practice and procedure of the courts, or to the duties of the officers thereof, or to the costs of proceedings therein;
- (n) respecting every matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts respecting small claims courts. R.S.O. 1970, c. 439, s. 195 (1); 1972, c. 107, s. 7; 1977, c. 52, s. 20.

(2) In prescribing the territorial limits of a division, the Lieutenant Governor in Council may, where in his opinion the circumstances of the case so warrant,

Territorial  
limits

- (a) include any area within the territorial limits of more than one division; and



- (b) include within the territorial limits of a small claims court, an area in an adjoining county. R.S.O. 1970, c. 439, s. 195 (2).

## CHAPTER 477

## Snow Roads and Fences Act

## PART I

## SNOW ROADS

**1.** In this Act, "vehicle" means a vehicle drawn by one or more horses or other animals or propelled by any motive power. R.S.O. 1970, c. 440, s. 1. <sup>Interpretation</sup>

**2.** The council of a county may provide, by by-law, for the making of a double track during the season of sleighing in each and every year upon such leading highways within the county, whether or not county roads, as the council considers advisable. R.S.O. 1970, c. 440, s. 2. <sup>Powers of county council</sup>

**3.** Where a county council has passed such a by-law, the double track shall be so made that one vehicle may pass another without being obliged to turn out when meeting. R.S.O. 1970, c. 440, s. 3. <sup>Nature of tracks</sup>

**4.** Every vehicle shall travel in the right-hand track, and any person driving or propelling his vehicle in the wrong track shall leave it when he meets a vehicle entitled to use such track. R.S.O. 1970, c. 440, s. 4. <sup>Right of road</sup>

**5.—(1)** A county council may also provide by by-law that pathmasters appointed by township councils shall cause the highways on which double tracks are to be made to be kept open for travel within their respective municipalities, or, if there are no such pathmasters available, may appoint roadmasters to perform that duty. <sup>Duties and powers of pathmasters or roadmasters</sup>

**(2)** Such pathmasters or roadmasters have power to call out persons liable to perform statute labour to assist in keeping open such highways within their respective municipalities, and may give to the persons employed in so doing certificates of having performed statute labour to the amount of the days work done, and such work shall be allowed for in the next season's statute labour. <sup>Calling out persons liable to perform statute labour</sup>

**(3)** The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be necessary for <sup>Application of commutation of statute labour</sup>

the keeping open of such highways within their respective municipalities. R.S.O. 1970, c. 440, s. 5.

County  
acting on  
default by  
township

6. If a township council neglects or refuses to keep such highways open for travel as provided by section 5, the county council may do so, and may impose upon the township so in default a rate sufficient for that purpose, and the rate shall be levied and collected in the manner provided by the *Municipal Act* for the collection of county rates. R.S.O. 1970, c. 440, s. 6.

R.S.O. 1980,  
c. 302

Offence for  
persons  
refusing to  
work

7. Any person liable to perform statute labour who refuses or neglects to turn out and work under any pathmaster or roadmaster who calls him out for that purpose, under the authority of this Act, is guilty of an offence and on conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1970, c. 440, s. 7.

Offence for  
refusing to  
turn out of  
wrong track

8. Any person travelling with his vehicle in the wrong track and refusing or neglecting to leave the track when met by a person who is rightfully travelling therein with his vehicle is guilty of an offence and on conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1970, c. 440, s. 8.

How Act  
enforceable  
in townships  
in districts

9. All the rights and powers conferred by this Act upon councils of counties may be exercised by the councils of townships in districts without county organization. R.S.O. 1970, c. 440, s. 9.

## PART II

### SNOW FENCES

Powers of  
councils to  
require  
removal of  
fences

10.—(1) The council of any municipality may pass by-laws requiring the owners or occupants of land bordering upon a public highway to take down, alter or remove any fence that causes an accumulation of snow or drift so as to impede or obstruct travel.

Making  
compensa-  
tion  
therefor

(2) The council shall make such compensation to the owners or occupants for the taking down, alteration or removal of the fence and for the construction in lieu thereof of some other description of fence, approved of by the council, as may be mutually agreed upon, and in default of agreement the compensation shall be determined by arbitration, and three fence-viewers appointed by the council shall be the arbitrators. R.S.O. 1970, c. 440, s. 10.

**11.—**(1) If the owner or occupant refuses or neglects to take down, alter or remove the fence as required by the council, the council, after the expiration of two months from the time the compensation has been agreed upon or determined by arbitration, may take down, alter or remove the fence, and may construct the fence that has been approved of by the council, and the amount of all costs and charges thereby incurred by the council, over and above the amount of compensation, may be recovered from the owner or occupant by action in any small claims court having jurisdiction in the locality, and the amount of the judgment, if not sooner paid, shall be placed by the clerk of the municipality upon the collector's roll against the land upon or along the boundaries of which the fence is situate, and shall be collected as other taxes.

Power in case of neglect or refusal by owner or occupant

(2) Where an occupant, other than the owner, is required to pay such sum, or any part thereof, he may deduct it, and any costs paid by him, from the rent payable by him, or may otherwise recover it unless he has agreed with the landlord to pay it.

Right of occupant to deduct amount paid from rent

(3) The arbitrators shall examine the premises and shall, if required, hear evidence.

Duties of arbitrators

(4) The arbitrators are entitled to \$2 a day, which shall be paid by the corporation of the municipality if the amount of the award exceeds the amount offered by the corporation, otherwise by the owner or occupant.

Fees

(5) The award shall be filed in the office of the clerk of the municipality, and an appeal lies therefrom to the judge of the county or district court of the county or district.

Appeal

(6) The provisions of the *Line Fences Act* apply with necessary modifications to the appeal. R.S.O. 1970, c. 440, s. 11.

R.S.O. 1980, c. 242 to apply

**12.—**(1) Every such council may, on or after the 15th day of November and before the 31st day of March following, enter into and upon any lands of Her Majesty, or of any corporation or person, situate within the municipality and lying along any public highway in or adjoining any such municipality, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as may be suffered by the owner or occupant of the land so entered upon, the amount thereof to be ascertained, if not mutually agreed upon, by arbitration as provided in section 10.

Power to enter on lands



## Removal

(2) The snow fences so erected shall be removed on or before the 1st day of April following.

Extension  
of time  
for main-  
tenance and  
removal

(3) When weather conditions do not permit the removal of snow fences on or before the 1st day of April, the council may by by-law extend the time during which snow fences may be maintained and the date by which they shall be removed to a date fixed by the by-law.

## Offence

(4) Any person who hinders or interferes with the erection of snow fences under the provisions of this Act, or who takes down, removes or otherwise interferes with snow fences that have been erected hereunder is guilty of an offence and on conviction is liable to a fine of not less than \$1 and not more than \$50. R.S.O. 1970, c. 440, s. 12.

## CHAPTER 478

## Solicitors Act

## UNAUTHORIZED PRACTICE

1. If a person, unless himself a party to the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without having been admitted and enrolled as a solicitor, he is incapable of recovering any fee, reward or disbursements on account thereof, and is guilty of a contempt of the court in which such proceeding was commenced, carried on or defended, and is punishable accordingly. R.S.O. 1970, c. 441, s. 1.

Penalty on persons practising without being admitted as solicitors

## SOLICITOR'S COSTS

2.—(1) No action shall be brought for the recovery of fees, charges or disbursements for business done by a solicitor as such until one month after a bill thereof, subscribed with the proper hand of the solicitor, his executor, administrator or assignee or, in the case of a partnership, by one of the partners, either with his own name, or with the name of the partnership, has been delivered to the person to be charged therewith, or sent by post to, or left for him at his office or place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill.

Solicitors to deliver their bill one month before bringing action for costs

(2) In proving compliance with this Act it is not necessary in the first instance to prove the contents of the bill delivered, sent or left, but it is sufficient to prove that a bill of fees, charges or disbursements subscribed as required by subsection (1), or enclosed in or accompanied by such letter, was so delivered, sent or left, but the other party may show that the bill so delivered, sent or left, was not such a bill as constituted a compliance with this Act.

Not necessary in first instance to prove contents of bill delivered

(3) A solicitor's bill of fees, charges or disbursements is sufficient in form if it contains a reasonable statement or description of the services rendered with a lump sum charge therefor together with a detailed statement of disbursements, and in any action upon or taxation of such a bill if it is deemed proper further details of the services rendered may be ordered. R.S.O. 1970, c. 441, s. 2.

Charges in lump sum

Services rendered  
Contents  
10-11

✓ Order for  
taxation on  
*praeci*  
*pe*

*circumstances*

3. Where the retainer of the solicitor is not disputed and there are no special circumstances, an order may be obtained on *praeci*pe from the proper officer in the county in which the solicitor resides,

- (a) by the client, for the delivery and taxation of the solicitor's bill;
- (b) by the client, for the taxation of a bill already delivered, within one month from its delivery;
- (c) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, if no order for its taxation has been previously made. R.S.O. 1970, c. 441, s. 3.

✓ No reference  
on applica-  
tion of party  
chargeable  
after verdict  
or after 12  
months from  
delivery

4.—(1) No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after twelve months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made.

Directions  
as to costs

(2) Where the reference is made under subsection (1), the court or judge, in making it, may give any special directions relative to its costs. R.S.O. 1970, c. 441, s. 4.

✓ When officer  
may tax bill  
*ex parte*

*circumstances*

5. In case either party to a reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill ex parte. R.S.O. 1970, c. 441, s. 5.

✓ Delivery of  
bill and  
reference to  
taxation

*reference*

6.—(1) When a client or other person obtains an order for the delivery and taxation of a solicitor's bill of fees, charges and disbursements, or a copy thereof, the bill shall be delivered within fourteen days from the service of the order.

Credits,  
debts, etc.,  
on reference

(2) The bill delivered shall stand referred to the proper officer for taxation, and on the reference the solicitor shall give credit for, and an account shall be taken of, all sums of money by him received from or on account of the client, and the solicitor shall refund what, if anything, he may on such taxation appear to have been overpaid.

Costs on  
reference

(3) The costs of the reference are, unless otherwise directed, in the discretion of the officer, subject to appeal, and shall be taxed by him when and as allowed.

(4) The solicitor shall not commence or prosecute any action in respect of the matters referred pending the reference without leave of the court or a judge.

No action  
pro tempore

(5) The amount certified to be due shall be paid forthwith after confirmation of the certificate by filing, as in the case of a master's report, by the party liable to pay the same.

Amount  
certified

(6) Upon payment by the client or other person of what, if anything, appears to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, shall deliver to the client or other person, or as he directs, all deeds, books, papers and writings in the solicitor's possession, custody or power belonging to the client.

Client's  
papers

(7) The order shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variation therefrom and any other directions that the court or judge sees fit to make.

Contents  
of order

(8) An order for reference of a solicitor's bill for taxation shall be presumed to contain subsections (2) to (6) whether obtained on *praecipe* or otherwise, and by the solicitor, client or other person liable to pay the bill.

What order  
presumed  
to contain

(9) The reference for taxation shall, unless otherwise ordered, be to the proper taxing officer for the county in which the solicitor resides. R.S.O. 1970, c. 441, s. 6.

Reference to  
be to local  
taxing officer

7. A judge of the Supreme Court or of a county or district court, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to depart from Ontario, may authorize a solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of the bill. R.S.O. 1970, c. 441, s. 7.

When  
actions for  
costs within  
the month  
may be  
allowed

8.—(1) Where a person, not being chargeable as the principal party, is liable to pay or has paid a bill either to the solicitor, his assignee, or personal representative, or to the principal party entitled thereto, the person so liable to pay or paying, his assignee or personal representative, may apply to the court for an order referring to taxation as the party chargeable therewith might himself have done, and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable.

Taxation  
where a  
party not  
being the  
principal,  
pays a bill  
of costs

parties  
paying costs



What special circumstances may be considered in such case

(2) If such application is made where, under the provisions hereinbefore contained, ~~a reference is not authorized to be made except under special circumstances~~, the court may take into consideration any additional ~~special circumstances applicable to the person making it~~, although such circumstances might not be applicable to the party chargeable with the bill if he was the party making the application.

Order for delivery of a copy of the bill

(3) For the purpose of such reference, the court may ~~order the solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy.~~

Taxation at instance of third person

(4) When a person, other than the client, applies for taxation of a bill delivered or for the delivery of a copy thereof for the purpose of taxation and it appears that by reason of the conduct of the client the applicant is precluded from taxing the bill, but is nevertheless entitled to an account from the client, it is not necessary for the applicant to bring an action for an account, but the court may, in a summary manner, refer a bill already delivered or order delivery of a copy of the bill, and refer it for taxation, as between the applicant and the client, and may add such parties not already notified as may be necessary.

Application of s. 6

(5) The provisions of section 6, so far as they are applicable, apply to such taxation. R.S.O. 1970, c. 441, s. 8.

When a bill may be retaxed.

9. No bill previously taxed shall be again referred unless under the special circumstances of the case the court thinks fit to direct a retaxation thereof. R.S.O. 1970, c. 441, s. 9.

Payment not to preclude taxation if applied for within a year

10. The payment of a bill does not preclude the court from referring it for taxation, if the application is made within twelve months after payment, and if the special circumstances of the case, in the opinion of the court, appear to require the taxation. R.S.O. 1970, c. 441, s. 10.

Taxation of costs

11. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a surrogate court, may be directed to be taxed by the proper officer of such court. R.S.O. 1970, c. 441, s. 11.

A taxing officer may require the assistance of the officer of any other court

12. Where a bill is referred for taxation, the officer to whom the reference is made may request the proper officer of any other court to assist him in taxing any part of the bill, and the officer so requested shall thereupon tax it, and has the same powers and may receive the same fees in respect thereof as upon a reference to him by the

court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax it. R.S.O. 1970, c. 441, s. 12.

**13.** Every application to ~~refer a bill for taxation~~, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made *In the matter of (the solicitor)*, and upon the taxation of the bill the report of the officer by whom the bill is taxed, ~~unless set aside or varied~~, is final and conclusive as to the amount thereof, and payment of the amount found to be due and directed to be paid may be enforced according to the practice of the court in which the reference was made. R.S.O. 1970, c. 441, s. 13.

How applications against solicitors to be entitled ✓  
✓/Port  
ferms

#### RULES

**14.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make general rules for carrying out this Act. R.S.O. 1970, c. 441, s. 14.

Rules Committee may make rules, etc.

**15.** Such rules may include rules respecting business by solicitors connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing, and may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum or by a fixed sum for each document prepared or perused without regard to length, or in any other mode or partly in one mode and partly in another or others, and may, as regards the amount of the remuneration, regulate the same with reference to all or any of the following among other considerations:

Principles of remuneration in conveyancing matters

1. The position of the party for whom the solicitor is concerned in any business, that is, whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like.
  2. The place, district and circumstances at or in which the business or part thereof is transacted.
  3. The amount of the capital money or of the rent to which the business relates.
  4. The skill, labour and responsibility involved therein on the part of the solicitor.
  5. The number and importance of the documents prepared or perused, without regard to length.
- R.S.O. 1970, c. 441, s. 15.

What to be  
considered  
in taxation  
of costs

**16.** In the absence of any general rule, and so far as any general rule does not apply, the taxing officer, in taxing a bill for preparing and executing any instrument, shall consider not the length of the instrument but the skill, labour and responsibility involved therein. R.S.O. 1970, c. 441, s. 16.

#### AGREEMENTS BETWEEN SOLICITORS AND CLIENTS

Interpre-  
tation

**17.** In this section and in sections 18 to 35,

- (a) "client" includes a person who, as a principal or on behalf of another person, retains or employs or is about to retain or employ a solicitor, and a person who is or may be liable to pay the bill of a solicitor for any services;
- (b) "services" includes fees, costs, charges and disbursements. R.S.O. 1970, c. 441, s. 17.

Agreements  
between  
solicitors  
and clients  
as to com-  
pensation

**18.—**(1) Subject to sections 19 to 35, a solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of business done or to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate or at a greater or less rate than that at which he would otherwise be entitled to be remunerated.

Interpre-  
tation

(2) In this section "commission" and "percentage" apply only to non-contentious business and to conveyancing.

Application

(3) This section applies to and includes any business to which section 15 relates, whether or not any general rule under section 14 is in operation. R.S.O. 1970, c. 441, s. 18.

Approval of  
agreement  
by taxing  
officer

**19.** Where the agreement is made in respect of business done or to be done in any court, except a small claims court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer of a court having power to enforce the agreement. R.S.O. 1970, c. 441, s. 19.

Opinion of  
court on  
agreement

**20.** Where it appears to the taxing officer that the agreement is not fair and reasonable, he may require the opinion of a court to be taken thereon. R.S.O. 1970, c. 441, s. 20.

**21.** The court may either reduce the amount payable under the agreement or order it to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be taxed in the same manner as if the agreement had not been made. R.S.O. 1970, c. 441, s. 21.

Rejection of  
agreement  
by court ✓  
*at times*  
*costs*  
*circumstances*

**22.** Such an agreement does not affect the amount, or any right or remedy for the recovery, of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed in the ordinary manner, unless such person has otherwise agreed; but the client who has entered into the agreement is not entitled to recover from any other person under any order for the payment of any costs that are the subject of the agreement more than the amount payable by the client to his own solicitor under the agreement. R.S.O. 1970, c. 441, s. 22.

Agreement  
not to affect  
costs as be-  
tween party  
and party

**23.** Such an agreement excludes any further claim of the solicitor beyond the terms of the agreement in respect of services in relation to the conduct and completion of the business in respect of which it is made, except such as are expressly excepted by the agreement. R.S.O. 1970, c. 441, s. 23.

Claims for  
additional  
remuneration  
excluded

**24.** A provision in any such agreement that the solicitor is not to be liable for negligence or that he is to be relieved from any responsibility to which he would otherwise be subject as such solicitor is wholly void. R.S.O. 1970, c. 441, s. 24.

Agreements  
relieving  
solicitor  
from  
liability for  
negligence  
void

**25.** No action shall be brought upon any such agreement, but every question respecting the validity or effect of it may be examined and determined, and it may be enforced or set aside without action on the application of any person who is a party to the agreement or who is or is alleged to be liable to pay or who is or claims to be entitled to be paid the costs, fees, charges or disbursements, in respect of which the agreement is made, by the court, not being a small claims court, in which the business or any part of it was done or a judge thereof, or, if the business was not done in any court, by the Supreme Court. R.S.O. 1970, c. 441, s. 25.

Determina-  
tion of  
disputes  
under the  
agreement

**26.** Upon any such application, if it appears to the court that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court by order in such manner and subject to such conditions, as to the costs of the application as the court thinks fit, but, if the terms of the agreement are deemed by the court

Enforcement  
of agreement ✓  
*at times*



not to be fair and reasonable, the agreement may be declared void, and the court may order it to be cancelled and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be taxed in the ordinary manner. R.S.O. 1970, c. 441, s. 26.

✓  
Reopening  
of agreement

*circumstances*  
*costs*

**27.** Where the amount agreed under any such agreement has been paid by or on behalf of the client or by any person chargeable with or entitled to pay it, the Supreme Court may, upon the application of the person who has paid it, within twelve months after the payment thereof, if it appears to the court that the special circumstances of the case require the agreement to be reopened, reopen it and order the costs, fees, charges and disbursements to be taxed, and may also order the whole or any part of the amount received by the solicitor to be repaid by him on such terms and conditions as to the court seems just. R.S.O. 1970, c. 441, s. 27.

Agreements  
made by  
client in  
fiduciary  
capacity

**28.** Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person whose estate or property will be chargeable with the amount or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer at Toronto who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. R.S.O. 1970, c. 441, s. 28.

Client paying  
without  
approval to  
be liable to  
estate

**29.** If the client pays the whole or any part of such amount without the previous allowance of such officer or the direction of the court, he is liable to account to the person whose estate or property is charged with the amount paid or any part of it for the amount so charged, and the solicitor who accepts such payment may be ordered by the court to refund the amount received by him. R.S.O. 1970, c. 441, s. 29.

Solicitors  
not to  
purchase  
any interest  
in litigation  
or to make  
payment  
dependent  
upon  
success

**30.** Nothing in sections 18 to 35 gives validity to a purchase by a solicitor of the interest or any part of the interest of his client in any action or other contentious proceeding to be brought or maintained, or gives validity to an agreement by which a solicitor retained or employed to prosecute an action or proceeding stipulates for payment only in the event of success in the action or proceeding, or where the amount to be paid to him is a percentage of the amount or value of the property recovered or preserved or otherwise determinable by such amount or value or dependent upon the result of the action or proceeding. R.S.O. 1970, c. 441, s. 30.

**31.** Where a solicitor who has made such an agreement and who has done anything under it dies or becomes incapable of acting before the agreement has been completely performed by him, an application may be made to any court that would have jurisdiction to examine and enforce the agreement by any person who is a party thereto, and the court may thereupon enforce or set aside the agreement so far as it may have been acted upon as if the death or incapacity had not happened, and, if it deems the agreement to be in all respects fair and reasonable, may order the amount in respect of the past performance of it to be ascertained by taxation, and the taxing officer, in ascertaining such amount, shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be ordered in the same manner as if the agreement had been completely performed by the solicitor. R.S.O. 1970, c. 441, s. 31.

**32.** If, after any such agreement has been made, the client changes his solicitor before the conclusion of the business to which the agreement relates, which he is at liberty to do notwithstanding the agreement, the solicitor, party to the agreement, shall be deemed to have become incapable to act under it within the meaning of section 31, and upon any order being made for taxation of the amount due him in respect of the past performance of the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor took place, and upon the taxation the solicitor shall be deemed not to be entitled to the full amount of the remuneration agreed to be paid to him, unless it appears that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for the change of solicitor. R.S.O. 1970, c. 441, s. 32.

**33.** Except as otherwise provided in sections 18 to 32 and sections 34 and 35, a bill of a solicitor for the amount due under any such agreement is not subject to any taxation or to any provision of law respecting the signing and delivery of a bill of a solicitor. R.S.O. 1970, c. 441, s. 33.

**34.** A solicitor may accept from his client, and a client may give to his solicitor, security for the amount to become due to the solicitor for business to be transacted by him and for interest thereon, but so that the interest is not to commence until the amount due is ascertained by agreement or by taxation. R.S.O. 1970, c. 441, s. 34.

**35.** A solicitor may charge interest at the rate of 5 per cent per annum on his disbursements and costs, whether by scale

Where  
solicitor dies  
or becomes  
incapable of  
acting after  
agreement

Changing  
solicitor  
after making  
agreement

Bills under  
agreement  
not to be  
liable to  
taxation

Security  
may be  
given to  
solicitor for  
costs

Interest on  
disburse-  
ments and  
costs

or otherwise, from the expiration of one month from demand from the client, and where the same are payable by a minor or out of a fund presently available the demand may be made on the parent or guardian or the trustee or other person liable. R.S.O. 1970, c. 441, s. 35.

#### SOLICITORS AS MORTGAGEES, ETC.

Interpre-  
tation

**36.**—(1) In this section, “mortgage” includes any charge on any property for securing money or money’s worth.

Charges, etc.,  
where  
mortgage is  
made with  
solicitor

(2) A solicitor to whom, either alone or jointly with any other person, a mortgage is made, or the firm of which the solicitor is a member, is entitled to receive for all business transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property and preparing and completing the mortgage, all the usual professional charges and remuneration that he or they would have been entitled to receive if the mortgage had been made to a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the mortgagor.

Right of  
solicitor with  
whom  
mortgage is  
made to  
recover costs,  
etc.

(3) A solicitor to or in whom, either alone or jointly with any other person, a mortgage is made or is vested by transfer or transmission, or the firm of which the solicitor is a member, is entitled to receive and recover from the person on whose behalf the same is done or to charge against the security for all business transacted and acts done by the solicitor or firm subsequent and in relation to the mortgage or to the security thereby created or the property therein comprised all such usual professional charges and remuneration as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and accordingly the mortgage shall not be redeemed except upon payment of such charges and remuneration.

Solicitor-  
director,  
right to  
charge for  
services to  
trust estate

(4) A solicitor who is a director of a trust company or of any other company, or the firm of which the solicitor is a member is entitled to receive for all business transacted or acts done by the solicitor or firm for the company in relation to or in connection with any matter in which the company acts as trustee, guardian, personal representative or agent, all the usual professional fees and remuneration that he or they would be entitled to receive if the solicitor had not been a director

of the company, and the company had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the company and may be charged by them as a disbursement in the matter of such trusteeship, guardianship, administration or agency. R.S.O. 1970, c. 441, s. 36.

#### SALARIED SOLICITORS OF CORPORATIONS

**37.** Where the remuneration of a solicitor or counsel employed by a corporation is wholly or partly paid by salary, the corporation employing the solicitor or counsel has, notwithstanding, the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel were not receiving a salary if the costs are by the terms of his employment payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1970, c. 441, s. 37.

Collection of  
costs where  
corporation  
solicitor or  
counsel  
receives  
salary





## CHAPTER 479

## Spruce Pulpwood Exportation Act

1. Where lands have been granted pursuant to any special Act as a subsidy to any railway or other company in connection with the establishment of its undertaking in Ontario and by such Act the exportation from Canada of spruce pulpwood cut from such lands in an unmanufactured condition is prohibited, the Lieutenant Governor in Council, on the recommendation of the Minister of Natural Resources and notwithstanding anything in any such Act or in any patent from the Crown of lands granted pursuant thereto, may suspend the operation of any such prohibition and may permit the exportation of spruce pulpwood cut from such lands in an unmanufactured condition for such period and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 442, s. 1; 1972, c. 4, s. 12.

Prohibition  
of exportation  
in  
special Acts  
may be  
suspended



## CHAPTER 480

## Statistics Act

## 1. In this Act,

Interpre-  
tation

- (a) "person", in addition to its meaning in the *Interpretation Act*, includes a municipality as defined in the *Municipal Affairs Act*; R.S.O. 1980, cc. 219, 303

- (b) "statistical information" means information relative to the economic, financial, industrial, commercial, social and general activities and condition of persons, whether such information is collected by means of sampling or any other statistical method. R.S.O. 1970, c. 443, s. 1; 1972, c. 1, s. 104 (6).

2.—(1) Subject to subsections (3) and (4), the Lieutenant Governor in Council may authorize the minister of any ministry of government, Statistical procedures authorized

- (a) to enter into an agreement with the Government of Canada or the government of any province in Canada or any agency of any such government to provide for an exchange or joint collection of statistical information;

- (b) to collect, compile, analyse and publish statistical information;

- (c) to collect statistical information jointly with the minister of any other ministry of government. R.S.O. 1970, c. 443, s. 2 (1); 1972, c. 1, s. 2.

(2) Every authorization given under clause (1) (a), (b) or (c) shall have attached thereto a questionnaire setting out the questions that are proposed to be asked, the persons or class of persons to whom the questionnaire is directed and the time within which such persons will be required to answer the questions and return the questionnaire. R.S.O. 1970, c. 443, s. 2 (2). Questionnaires

(3) Every agreement and every authorization proposed under this section shall be in writing and filed with the Treasurer of Ontario and Minister of Economics before submis- Agreements



sion to the Lieutenant Governor in Council. R.S.O. 1970, c. 443, s. 2 (3); 1972, c. 3, s. 17 (1).

#### Report

(4) The Treasurer of Ontario and Minister of Economics shall submit a report to the Lieutenant Governor in Council on every agreement and every authorization proposed under this section. R.S.O. 1970, c. 443, s. 2 (4); 1972, c. 3, s. 17 (1).

#### Questions to be answered

**3.** The questions in any questionnaire authorized under this Act shall be accurately and truthfully answered by each person to whom the questionnaire is directed and shall be returned to the minister who issued it. R.S.O. 1970, c. 443, s. 3.

#### Oath of office and secrecy

**4.—(1)** No person shall collect, compile, analyse or publish statistical information under this Act until he takes and subscribes before his minister, his deputy minister, or a person designated in writing by either of them, an oath of office and secrecy in the following form:

I, ....., do swear that I will faithfully discharge my duties under the *Statistics Act* and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my duties under the *Statistics Act*. So help me God.

#### No unauthorized disclosure

(2) Subject to section 6, no public servant having knowledge of the answers to questions asked in a questionnaire under this Act shall disclose or give to any person any information or document with respect to such answers without the written permission of his minister, and, except where statistical information is collected jointly under this Act, such permission shall be limited to the disclosing or giving of information or documents to public servants in the minister's ministry or in prosecutions instituted for offences against this Act.

#### Answers to be confidential

(3) Notwithstanding anything in this Act, no minister or public servant shall, in any way, use the answers to questions asked in a questionnaire authorized under this Act for any purpose other than the purposes of this Act.

#### No personal liability

(4) No person who collects, compiles, analyses or publishes statistical information under this Act is personally liable for anything done by him under the authority of this Act. R.S.O. 1970, c. 443, s. 4; 1972, c. 1, s. 2.

#### No discrimination

**5.—(1)** No person, when acting under the authority of this Act, shall discriminate between persons to the prejudice of any person.

(2) Nothing in this section prohibits the collection of statistical information by means of sampling. R.S.O. 1970, c. 443, s. 5. Sampling permitted

**6.—**(1) Where a person who has answered a question in a questionnaire consents in writing, a minister may give permission to a public servant in his ministry who has knowledge of the answer to disclose or give the answer to one or more public servants in another ministry. Disclosure of information to another ministry

(2) Subsection (1) does not apply to an index or list, whether released separately or in a report, summary of statistics or other publication under this Act, of answers to the questions in a questionnaire revealing only, Indexes, etc., excepted

- (a) the names and locations of individual firms or businesses; or
- (b) the types of products commercially produced, manufactured or dealt with by individual firms or businesses,

but no such list or index shall otherwise disclose any of the answers given to the questions in a questionnaire. R.S.O. 1970, c. 443, s. 6; 1972, c. 1, s. 2.

**7. Any person who,**

- (a) being required under the authority of this Act to answer any question in a questionnaire and to return it to the minister who issued it, fails to answer, without lawful excuse, any such question or to return the questionnaire within the time prescribed; or
- (b) wilfully gives a false answer to any such question,

Offences:  
failure to  
give  
answers;  
false  
answers

is, for every day of such failure or for every false answer, guilty of an offence and on conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1970, c. 443, s. 7.

**8. Any person who,**

- (a) in the pretended performance of his duties under this Act, obtains or seeks to obtain information that he is not duly authorized to obtain; or
- (b) discloses or gives any information or document to any person in contravention of subsection 4 (2),

Offences:  
obtaining  
unauthorized  
information;  
unauthorized  
disclosure

is guilty of an offence and on conviction is liable to a fine of not more than \$300 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 443, s. 8.

Offences:  
affecting  
market  
value;  
speculating

**9.** Any person who,

- (a) discloses or gives any information or document respecting an answer to a question in a questionnaire authorized under this Act to any person with the intent that the market value of a product is thereby affected; or
- (b) uses an answer in any such questionnaire for the purpose of speculating in a product,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than five years, or to both. R.S.O. 1970, c. 443, s. 9.

Regulations

**10.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the manner in which information shall be collected, compiled, analysed or published under this Act;
- (b) prescribing forms and providing for their use;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 443, s. 10.

## CHAPTER 481

### Statute of Frauds

**1.**—(1) Every estate or interest of freehold and every uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be made or created by a writing signed by the parties making or creating the same, or their agents thereunto lawfully authorized in writing, and, if not so made or created, has the force and effect of an estate at will only, and shall not be deemed or taken to have any other or greater force or effect.

Writing  
required  
to create  
certain  
estates or  
interests

(2) All leases and terms of years of any messuages, lands, tenements or hereditaments are void unless made by deed. R.S.O. 1970, c. 444, s. 1.

Leases to  
be made  
by deed

**2.** Subject to section 9 of the *Conveyancing and Law of Property Act*, no lease, estate or interest, either of freehold or term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be assigned, granted or surrendered unless it be by deed or note in writing signed by the party so assigning, granting, or surrendering the same, or his agent thereunto lawfully authorized by writing or by act or operation of law. R.S.O. 1970, c. 444, s. 2.

How leases  
or estates  
of freehold,  
etc., to be  
granted or  
surrendered  
R.S.O. 1980,  
c. 90

**3.** Sections 1 and 2 do not apply to a lease, or an agreement for a lease, not exceeding the term of three years from the making thereof, the rent upon which, reserved to the landlord during such term, amounts to at least two-thirds of the full improved value of the thing demised. R.S.O. 1970, c. 444, s. 3.

Except  
leases not  
exceeding  
three years,  
etc.

**4.** No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge any person upon any special promise to answer for the debt, default or miscarriage of any other person, or to charge any person upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action is brought, or some memorandum or note thereof is in writing

Writing  
required  
for certain  
contracts



and signed by the party to be charged therewith or some person thereunto by him lawfully authorized. R.S.O. 1970, c. 444, s. 4; 1978, c. 2, s. 88.

Limitation  
as to validity  
of certain  
covenants or  
conditions

**5.** A promise, contract or agreement to pay a sum of money by way of liquidated damages or to do or suffer any other act, matter or thing based upon, arising out of, or relating to a promise, contract or agreement dealt with in section 4 is not of any greater validity than the last-mentioned promise, contract or agreement. R.S.O. 1970, c. 444, s. 5.

Considera-  
tion for  
promise to  
answer for  
another  
need not  
be in  
writing

**6.** No special promise made by a person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action or other proceeding to charge the person by whom the promise was made by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R.S.O. 1970, c. 444, s. 6.

As to rati-  
fication of  
promise  
made  
during  
minority

**7.** No action shall be maintained whereby to charge a person upon a promise made after full age to pay a debt contracted during minority or upon a ratification after full age of a promise or simple contract made during minority, unless the promise or ratification is made by a writing signed by the party to be charged therewith or by his agent duly authorized to make the promise or ratification. R.S.O. 1970, c. 444, s. 7.

As to repre-  
sentation  
regarding  
the  
character,  
credit, etc.,  
of a third  
party

**8.** No action shall be brought whereby to charge a person upon or by reason of a representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made by a writing signed by the party to be charged therewith. R.S.O. 1970, c. 444, s. 8.

Declarations  
or creations  
of trusts  
of land  
to be in  
writing

**9.** Subject to section 10, all declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by a writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they are utterly void and of no effect. R.S.O. 1970, c. 444, s. 9.

Exception of  
trusts  
arising,  
transferred, or  
extinguished  
by implica-  
tion of law

**10.** Where a conveyance is made of lands or tenements by which a trust or confidence arises or results by implication or construction of law, or is transferred or extinguished by act or operation of law, then and in every such case the trust

or confidence is of the like force and effect as it would have been if this Act had not been passed. R.S.O. 1970, c. 444, s. 10.

**11.** All grants and assignments of a trust or confidence shall likewise be in writing signed by the party granting or assigning the same, or by such last will or devise, or else are likewise utterly void and of no effect. R.S.O. 1970, c. 444, s. 11.

Assignments  
of trusts  
to be in  
writing



## CHAPTER 482

## Statute Labour Act

## EXEMPTIONS

1. A person who is a member of the Canadian Forces is not liable to perform statute labour or to commute therefor. R.S.O. 1970, c. 445, s. 1. Exemptions of persons in Canadian Forces

2. A student in attendance at an institution of learning in Ontario is not liable to perform statute labour or to commute therefor. R.S.O. 1970, c. 445, s. 2. Students

## STATUTE LABOUR

3.—(1) Every person assessed upon the assessment roll of a township that has not passed a by-law abolishing statute labour is, if his property is assessed at not more than \$300, liable to two days statute labour; at more than \$300 but not more than \$500, three days; at more than \$500 but not more than \$700, four days; at more than \$700 but not more than \$900, five days; and for every \$300 over \$900, or any fractional part thereof over \$150, one additional day; but the council may, by a by-law operating generally and rateably, reduce or increase the number of days labour to which all the persons rated on the assessment roll or otherwise, shall be respectively liable so that the number of days labour to which each person is liable shall be in proportion to the amount at which he is assessed, and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value. R.S.O. 1970, c. 445, s. 3 (1). Number of days of statute labour

(2) Where one person is assessed for lots or parts of several lots in different parts of the township, not exceeding in the aggregate eighty-one hectares, such part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over eighty-one hectares as if the excess were one lot. R.S.O. 1970, c. 445, s. 3 (2); 1978, c. 87, s. 57 (1). Case of parts of lots owned by one person

(3) Every resident has the right to perform his whole statute labour in the statute labour division in which his Where labour to be performed



residence is situate, unless otherwise ordered by the municipal council.

Regulations  
as to  
performance

(4) The council may pass by-laws for regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended. R.S.O. 1970, c. 445, s. 3 (3, 4).

Commutation  
of labour

**4.**—(1) The council of any township may by by-law direct that a sum not exceeding \$3 a day shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes.

Idem

(2) Where no such by-law has been passed, the statute labour in respect of lands of residents and non-residents shall be commuted at the rate of \$2 for each day's labour. R.S.O. 1970, c. 445, s. 4.

Labour in  
township in  
which poll  
tax is not  
levied

**5.** In a township that has not passed a by-law abolishing statute labour, every male inhabitant of the township who,

- (a) is eighteen years or over and under sixty years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed in the township; and
- (d) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour elsewhere in Ontario,

is liable to one day of statute labour on the roads and highways in the township. R.S.O. 1970, c. 445, s. 5 (1); 1971, c. 98, s. 4, Sched., par. 32.

Abolition  
of labour

**6.** The council of every township may pass by-laws to abolish statute labour. R.S.O. 1970, c. 445, s. 6.

Penalty  
for non-  
performance

**7.**—(1) Any person liable to perform statute labour under section 5, not commuted, shall perform it when required so to do by the pathmaster or other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform the labour after six days notice requiring him to do so, shall incur a penalty of \$10.

(2) All sums and penalties, other than costs, recovered under this section shall be paid to the treasurer of the local municipality and shall form part of the statute labour fund thereof. R.S.O. 1970, c. 445, s. 7.

Payment of  
penalties to  
treasurer

8. A non-resident owner of unoccupied land shall not be permitted to perform statute labour in respect thereof, but the labour shall be commuted and the amount of the commutation shall be charged against every separate lot or parcel and be entered in the collector's roll, and the council shall order all sums paid on that account to be expended in the statute labour division in which the land is situate. R.S.O. 1970, c. 445, s. 8.

Commutation  
in case of  
non-resident  
owner of  
unoccupied  
land

9.—(1) Where an owner or tenant makes default in performing his statute labour or in payment of commutation therefor, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and it shall be collected by the collector.

If resident  
owner, etc.,  
makes  
default,  
commutation  
to be  
entered upon  
collector's  
roll

(2) In every such case the clerk shall notify the overseer of highways who may be appointed for the division in the following year, or after it has been collected, of the amount of the commutation, and the overseer shall expend that amount upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. R.S.O. 1970, c. 445, s. 9.

Overseer to  
expend the  
commutation  
money in  
the division

#### STATUTE LABOUR IN UNINCORPORATED TOWNSHIPS ROAD COMMISSIONERS

10.—(1) Twenty resident landholders,

Meeting for  
election of  
road com-  
missioners

(a) in any unincorporated township;

(b) in any designated part of any unincorporated township;

(c) in any two or more contiguous unincorporated townships;

(d) in any designated parts of two or more contiguous unincorporated townships; or

(e) in any locality that has not been surveyed or laid out into townships,

have the right to have a public meeting called for the purpose of electing road commissioners.

Interpre-  
tation

(2) In this section and in the following sections of this Act, "landholder" means an owner, locatee, purchaser or tenant of land who is a British subject, and "resident" includes a person who resides in the township or locality for any part of a year. R.S.O. 1970, c. 445, s. 10.

Requisition  
for meeting

**11.**—(1) The landholders desiring the meeting to be called shall sign a requisition authorizing one of their number, who shall be named in the requisition, to call a meeting of the resident landholders of the township or townships or of the designated part or parts of the township or townships or of the locality for the purpose of electing road commissioners.

Where  
jurisdiction  
extends to  
parts of two  
or more  
townships

(2) Where it is proposed that the road commissioners shall have jurisdiction over two or more townships or designated parts of two or more townships, the requisition shall be signed by at least eight resident landholders in any one township or part of a township or where there are less than fifteen resident landholders in any one township or part of a township by a majority of them, but the total number of resident landholders signing the requisitions shall not be less than twenty and the requisition shall designate what parts of the townships are to be included. R.S.O. 1970, c. 445, s. 11.

Meeting  
in case  
person named  
fails to call it

**12.** In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. R.S.O. 1970, c. 445, s. 12.

Notice of  
meeting

**13.** The notice calling the meeting shall be in Form 1, and,

- (a) shall be posted up in at least six conspicuous places and at each post office and public school house in the township, townships or locality, as the case may be; or
- (b) shall be sent by registered mail to all landholders in the township, townships or locality addressed to their last known place of residence; or

- (c) shall be published once a week for at least three weeks in a newspaper having general circulation in the township, townships or locality,

and the day named in the notice shall be at least ten days from the date of the last posting, mailing or publication, as the case may be. R.S.O. 1970, c. 445, s. 13.

**14.** The election shall take place at the time named, and the number of commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but the number shall not be fewer than three nor more than five. R.S.O. 1970, c. 445, s. 14.

**15.** In case the meeting is called by the person named in the requisition, he is entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman, and the chairman shall act as returning officer and, in the event of a tie, has a casting vote, although he may have previously voted, and the landholders present shall also appoint a secretary, who shall record the proceedings. R.S.O. 1970, c. 445, s. 15.

**16.**—(1) The landholders present shall decide how the voting for commissioners shall be conducted. R.S.O. 1970, c. 445, s. 16 (1).

(2) Every person is entitled to vote in the election of the road commissioners who is,

(a) of the full age of eighteen years;

(b) a British subject by birth or naturalization; and

(c) a landholder in the township or townships, or part or parts thereof, or the locality, for which the election is held. R.S.O. 1970, c. 445, s. 16 (2); 1971, c. 98, s. 4, Sched., par. 32.

(3) Where there is not a sufficient number of resident landholders who are British subjects to have a meeting called for the election of road commissioners pursuant to the requirements of this Act, the Minister of Natural Resources, upon the application in writing of any three resident landholders in the township or locality, may in writing certify to that effect and in that case, resident landholders otherwise qualified who are and who are not



British subjects may have the meeting called and vote in the election of road commissioners. R.S.O. 1970, c. 445, s. 16 (3); 1972, c. 4, s. 12.

Qualification  
of road com-  
missioners

**17.** No person may be elected as a road commissioner unless he is a British subject and otherwise qualified to vote in the election of road commissioners and unless he has performed or commuted for the statute labour to which he is liable. R.S.O. 1970, c. 445, s. 17.

Record of  
persons  
voting

**18.** The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. R.S.O. 1970, c. 445, s. 18.

Objections  
to voters

**19.**—(1) If an objection is made to the right of any person to vote at the meeting, the person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to him an oath, or affirmation if he is by law permitted to affirm, according to the following form, whereupon the person shall be permitted to vote:

You swear (or *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of eighteen years, and that you are the owner, tenant, purchaser or locatee of lot.....in the.....concession of this township, that you are a British subject, and that you are entitled to vote at this election.

So help you God.

R.S.O. 1970, c. 445, s. 19 (1); 1971, c. 98, s. 4, Sched., par. 32.

When oath,  
etc., not  
necessary

(2) In the case of an election held under the authority of subsection 16 (3), it is not necessary that a person desiring to vote be required to make oath or affirm that he is a British subject, and the form set forth in subsection (1) shall be amended accordingly. R.S.O. 1970, c. 445, s. 19 (2).

Declaration  
of office

**20.** The commissioners elected shall take a declaration of office in Form 2 before a justice of the peace and shall hold office until their successors are elected at the meeting called as provided in section 28 or, where no such meeting is called, until the 31st day of May in the year following that in which they were elected. R.S.O. 1970, c. 445, s. 20.

First  
meeting of  
commis-  
sioners

**21.** The commissioners shall meet within two weeks after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which

statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. R.S.O. 1970, c. 445, s. 21.

**22.**—(1) The commissioners have power to open road allowances when they have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable, to lay out roads in lieu thereof and direct the performance of statute labour thereon, and where no road allowances are laid down in the original surveys, but any of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly. R.S.O. 1970, c. 445, s. 22 (1).

Powers of  
road com-  
missioners  
as to  
opening  
roads

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Ministry of Natural Resources, and the commissioners may pay the cost of preparing the plan out of any moneys received by way of commutation of statute labour. R.S.O. 1970, c. 445, s. 22 (2); 1972, c. 4, s. 12.

Filing plan  
of roads in  
Ministry  
of Natural  
Resources

(3) In the case of a deviation passing over any patented improved land, the commissioners may pay to the owner of the land taken for the purpose of making the deviation the value of it as may be agreed upon between the commissioners and the owner, and in case of disagreement, the *Expropriations Act* applies.

Compensa-  
tion for land  
taken for  
deviation

R.S.O. 1980,  
c. 148

(4) Where the value of the land taken has been agreed upon between the commissioners and the owner, the owner shall execute a conveyance of the land to Her Majesty in right of Ontario and such conveyance shall be registered in the proper land registry office. R.S.O. 1970, c. 445, s. 22 (3, 4).

Land to  
be vested  
in Crown

**23.** The time for the performance of statute labour shall from time to time be regulated and fixed by resolution of the commissioners. R.S.O. 1970, c. 445, s. 23.

Time for  
performance

**24.**—(1) Notwithstanding subsection (3), each owner, locatee, purchaser or tenant of land may be required to perform one day's labour for every twenty hectares and one day's labour for the remainder of the hectarage held by him, where the total hectarage held by him divided by twenty leaves a remainder, and for the first four hectares that he has cleared

Amount of  
statute  
labour to be  
performed

after the first four, he may be required to perform one day's additional labour, and for every eight hectares over and above the first four, one additional day's labour, and each householder who is not an owner, locatee, purchaser or tenant of the land may be required each year to perform one day's labour. 1978, c. 87, s. 57 (2).

Idem

(2) Any owner, locatee, purchaser or tenant of land holding less than twenty hectares may be required to perform statute labour as the commissioners may direct, but not exceeding the scale provided for in subsection (1) where the land is in part cleared and not exceeding one day where no part of the land is cleared. R.S.O. 1970, c. 445, s. 24 (2); 1978, c. 87, s. 57 (3).

Statute  
labour in  
unincor-  
porated  
areas

(3) Where road commissioners have been elected for any unincorporated area, the secretary-treasurer shall enter in the statute labour book the name, date of birth and place of abode of every male inhabitant thereof who,

(a) is eighteen years or over and under sixty years of age;

(b) is not exempt from performing statute labour;

(c) is not assessed for statute labour in the area under subsection (1) or (2); and

(d) has not filed with the secretary-treasurer a certificate showing that he has been assessed or performed statute labour elsewhere in Ontario,

and every such male inhabitant is liable to one day of statute labour on the roads in the area. R.S.O. 1970, c. 445, s. 24 (3); 1971, c. 98, s. 4, Sched., par. 32.

Where land  
assessed  
for school  
purposes  
R.S.O. 1980,  
c. 129

(4) Where the land in an unincorporated township is assessed for school purposes under the *Education Act*, the commissioners may by resolution provide that the amount of statute labour to be performed shall be determined on the same basis as is prescribed in subsection 3 (1) in which case the provisions of subsections 3 (1) and (2) apply with necessary modifications. R.S.O. 1970, c. 445, s. 24 (4).

Commis-  
sioners to  
oversee  
work

**25.—(1)** Each commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour.

(2) The commissioners have the same powers as municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. R.S.O. 1970, c. 445, s. 25. General powers

**26.**—(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners which rate shall not be greater than the rate per day paid for labour by the Ministry of Transportation and Communications, and the commissioners shall expend all commutation money upon the roads on which the labour that is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. R.S.O. 1970, c. 445, s. 26 (1); 1972, c. 1, s. 100 (2). Commutation

(2) The statute labour in respect of unoccupied land of a non-resident owner shall in all cases be commuted. R.S.O. 1970, c. 445, s. 26 (2). Unoccupied land of non-resident owner

**27.**—(1) The commissioners may by resolution direct that a sum computed at the rate per day fixed by resolution of the commissioners under subsection 26 (1) shall be paid as commutation of statute labour for the whole of the township, but the resolution shall not take effect until it has been submitted to and sanctioned by the majority of the landholders present at the annual meeting or at a special meeting called in the manner provided for in this Act for the election of commissioners. Commutation of statute labour in townships

(2) The name of every person liable for the payment of the commutation shall be entered in the book directed to be kept by section 32, and the commissioners shall expend all commutation moneys received on the roads upon which the labour that is commuted for should have been performed unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. R.S.O. 1970, c. 445, s. 27. Record of persons liable to commutation

**28.** The majority of the commissioners may call a meeting to be held at any time between the 1st day of January and the 31st day of May for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. R.S.O. 1970, c. 445, s. 28. Meeting for election of new commissioners

**29.** Any person liable to perform statute labour or to pay an amount of commutation money in lieu thereof under sections 10 to 36 who, after six days notice requiring Penalty for neglect to perform work or pay money



him to do the labour, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days labour for which he is liable or who, after six days notice requiring him to pay the money, fails to pay the amount of commutation money for which he is liable, shall incur a penalty of \$5, and in addition the amount of the commutation money as fixed by the commissioners under section 26 for each day in respect of which he makes default, the same to be paid to the secretary-treasurer and to be expended in improving the roads on which the labour should have been performed, or such other roads as, in the opinion of the commissioners, require improvement. R.S.O. 1970, c. 445, s. 29.

Election of  
chairman and  
appointment  
of secretary-  
treasurer

**30.**—(1) The commissioners, at the first meeting after their election, shall elect one of their number as chairman to preside at meetings and shall appoint some competent person who may be one of themselves other than the chairman, as secretary-treasurer and the secretary-treasurer is exempt from the performance of statute labour and the commissioners may each year pay to the secretary-treasurer out of the commutation fund such amount as may be fixed by resolution of the commissioners. R.S.O. 1970, c. 445, s. 30 (1); 1979, c. 7, s. 1.

Security

(2) The secretary-treasurer before entering on his duties shall take a declaration of office in Form 2 before a justice of the peace, and shall give security satisfactory to the commissioners which shall be lodged for safe-keeping with the chairman. R.S.O. 1970, c. 445, s. 30 (2).

Commutation  
money

**31.** The secretary-treasurer shall receive and safely keep all commutation money and shall pay out such money in accordance with the provisions of this Act. R.S.O. 1970, c. 445, s. 31.

Statute  
labour  
book

**32.**—(1) The secretary-treasurer shall keep a statute labour book in Form 3 and shall enter therein the name of every person liable for the performance of statute labour or payment of the commutation and the lot or parcel of land in respect of which he is liable.

Entry of  
payment or  
performance

(2) Upon the performance of statute labour or payment of the commutation the secretary-treasurer shall make entry thereof in the statute labour book in the column provided for that purpose.

Entry of  
default

(3) Where any person who has been served with the prescribed notice as provided in section 33 does not perform his statute labour or commute therefor, the secretary-

treasurer shall enter the commutation thereof in the proper column of the statute labour book against the name of the person in default. R.S.O. 1970, c. 445, s. 32 (1-3).

(4) The statute labour book shall be available for inspection at all reasonable times by any owner or locatee of land, or householder in the area over which the commissioners have jurisdiction and by any officer or servant of the Ministry of Transportation and Communications designated by the Minister of Transportation and Communications. R.S.O. 1970, c. 445, s. 32 (4); 1972, c. 1, s. 100 (2).

**33.**—(1) The secretary-treasurer shall serve each notice to perform statute labour in Form 4 or, where a resolution has been passed and sanctioned as provided by section 27, to pay the commutation thereof in Form 5 personally or by leaving it at the usual place of abode of the person to whom it is directed with a grown up person residing there or by sending it by registered mail addressed to the person to whom it is directed at the post office nearest to his last known place of residence.

(2) The notices shall be served not less than six days before the date on which the person liable for statute labour is required to report or to pay exclusive of that date and the date of the service or mailing as the case may be. R.S.O. 1970, c. 445, s. 33.

**34.**—(1) On or before the 1st day of June in the year following that in which default was made, the secretary-treasurer shall make a return in Form 6 to the sheriff of the district showing each lot or parcel of land in respect of which default has been made, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed.

(2) The sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose.

(3) The secretary-treasurer shall not receive any payments on account of such arrears after the expiration of two years from the date specified in the notice in Form 4 or 5, but in the case of payments made within such period the secretary-treasurer shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him for that purpose.

After two  
years all  
arrears to  
be paid to  
sheriff

(4) Upon the expiration of the two year period all arrears are payable to the sheriff and the sheriff shall enter every payment in the book kept by him and shall return the amount paid to the secretary-treasurer.

Arrears to  
bear interest

(5) All arrears bear interest at the rate of 10 per cent per annum. R.S.O. 1970, c. 445, s. 34.

Sale of land  
by sheriff  
for arrears

**35.**—(1) Where it appears from the entries in the book kept by the sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the amount became payable, the sheriff shall proceed to collect the amount together with the penalties provided by section 29 and interest as provided by subsection 34 (5) and all other lawful charges and costs by the sale of the lands in respect of which the arrears are chargeable and the procedure in relation to the sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to purchasers shall be the same as nearly as possible as in the case of the sale of lands by the sheriff under section 202 of *The Assessment Act*, being chapter 272 of the Revised Statutes of Ontario, 1937, for arrears of taxes in organized municipalities in the Provisional Judicial District of Parry Sound, but the commissioners shall not purchase such land. R.S.O. 1970, c. 445, s. 35 (1).

Notice of  
adjourned  
sale

(2) The sheriff shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Natural Resources accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs that may be payable in respect thereof. R.S.O. 1970, c. 445, s. 35 (2); 1972, c. 4, s. 12.

Forfeiture

(3) Upon notification by the sheriff that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Natural Resources may declare the land or the interest therein forfeited to the Crown as provided in the *Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act remain unpaid for a period of two years and the provisions of the *Provincial Land Tax Act* apply with necessary modifications to the land or the interest

R.S.O. 1980,  
c. 399

therein so forfeited. R.S.O. 1970, c. 445, s. 35 (3); 1972, c. 4, s. 12.

(4) Where forfeiture is annulled upon payment to the Minister of Natural Resources in addition to any amounts payable under the *Provincial Land Tax Act* by reason of the forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection (1), the Minister of Natural Resources shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Transportation and Communications such charges and costs. R.S.O. 1970, c. 445, s. 35 (4); 1972, c. 1, s. 100 (2); 1972, c. 4, s. 12.

Where  
forfeiture  
annulled  
on payment  
of arrears  
R.S.O. 1980,  
c. 399

**36.** The commissioners, when duly elected, shall serve during the term for which they are elected or shall forfeit the sum of \$5, which may be sued for, together with costs, in any court having jurisdiction by any three electors making the complaint. R.S.O. 1970, c. 445, s. 36.

Penalty for  
neglect to  
serve as  
commis-  
sioners

#### RECOVERY OF PENALTIES

**37.** The penalties imposed by this Act are recoverable under the *Provincial Offences Act*. R.S.O. 1970, c. 445, s. 37.

Recovery of  
penalties  
R.S.O. 1980,  
c. 400



FORM 1

(Section 13)

PUBLIC NOTICE

Notice is hereby given that a meeting will be held at (*state place*) on the.....day of....., 19....., at the hour of.....o'clock in the.....noon to elect Road Commissioners for the Township of .....as provided by the *Statute Labour Act*.

Dated this.....day of....., 19....

.....  
*Caller of Meeting.*

R.S.O. 1970, c. 445, Form 1.

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FORM 2

(Sections 20, 30 (2) )

DECLARATION OF OFFICE

I,....., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of road commissioner (*or* secretary-treasurer of the road commissioners) of the Township of.....and that I have not received and I will not receive any payment or reward, or promise thereof for the exercise of any partiality or malversation or other undue execution of the office and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the road commissioners of the Township.

Declared before me this..... }  
day of....., 19.... }  
*A Justice of the Peace.*

R.S.O. 1970, c. 445, Form 2.

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## FORM 3

(Section 32 (1) )

## STATUTE LABOUR BOOK

TOWNSHIP OF.....19....

[illegible]

R.S.O. 1970, c. 445, Form 3; 1978, c. 87, s. 57 (4).

## FORM 4

(Section 33 (1) )

## NOTICE TO PERFORM STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to perform..... days statute labour for which you are liable on (*describe the lot or parcel of land*), and are required to report to....., the commissioner for the district in which your property is situate, at (*state place*) on the..... day of....., 19...., at the hour of..... o'clock in the ..... noon and to perform the labour where and as directed by him. Instead of performing the statute labour required of you, you may within six days from the date of this notice, commute therefor by paying to the undersigned the sum of \$..... Should you fail to report and perform the statute labour required of you or to pay the amount of the commutation, proceedings will be taken to collect the amount of the commutation together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under the *Provincial Offences Act*.

Dated at..... this..... day of....., 19....

.....  
*Secretary-Treasurer*

Road Commissioners of the Township of.....

R.S.O. 1970, c. 445, Form 4.

## FORM 5

(Section 33 (1))

NOTICE TO PAY THE COMMUTATION OF  
STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to pay to the undersigned the amount of \$.....being the commutation of..... days statute labour at \$.....per day for which you are liable on (*describe the lot or parcel of land*) within six days from the date of this notice.

Should you fail to pay this amount proceedings will be taken to collect it together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under the *Provincial Offences Act*.

Dated at..... this..... day of....., 19....

.....  
*Secretary-Treasurer*

Road Commissioners of the Township of.....

Address.....

R.S.O. 1970, c. 445, Form 5.

FORM 6  
(Section 34 (1) )

RETURN TO SHERIFF

ROAD COMMISSIONERS OF THE TOWNSHIP OF.....

To THE SHERIFF OF.....

TAKE NOTICE that the following owners or locatees have not paid the commutation for which they are liable as set forth opposite their names.

Dated at.....this.....day of....., 19.....

.....  
Secretary-Treasurer

Address.....

Name of Owner or Locatee	Description of Lot or Parcel	Number of Hec- tares	Amount of Com- mutation in Default	Year Imposed	Penalty	Total Due	Date Notice to Perform Served	How Notice Served ( <i>personally or by mail, if by mail to what address</i> )





## CHAPTER 483

## Statutes Act

**1.** An Act may be cited and referred to for all purposes by its title, or by its short title, or by a reference to the number of the particular chapter in the revised statutes or in the annual volume of statutes printed by the Queen's Printer. R.S.O. 1970, c. 446, s. 1; 1973, c. 2, s. 4 (3). Citation  
of Acts

**2.** The following words in an Act indicate the authority by virtue of which it is passed: "Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows". R.S.O. 1970, c. 446, s. 2. Enacting  
clause

**3.** Any Act may be amended, altered or repealed by an Act passed in the same session of the Legislature. R.S.O. 1970, c. 446, s. 3. Amendment  
or repeal  
during same  
session

**4.** The Clerk of the Assembly shall endorse on every Act, immediately after the title of the Act, the day, month and year when it was assented to, or reserved by the Lieutenant Governor, and, where the Act is reserved, the Clerk shall also endorse thereon the day, month and year when the Lieutenant Governor has signified, either by speech or message to the Assembly or by proclamation, that it was laid before the Governor General in Council and that the Governor General was pleased to assent thereto, and such endorsements shall be taken to be a part of the Act. R.S.O. 1970, c. 446, s. 4; 1974, c. 83, s. 1. Endorse-  
ments on  
Acts

**5.—(1)** Unless otherwise provided therein, every Act comes into force and takes effect on the sixtieth day after the prorogation of the session of the Legislature at which it was passed or on the sixtieth day after the day of signification, whichever is the later date. R.S.O. 1970, c. 446, s. 5 (1). Commence-  
ment of  
Acts

**(2)** Where a session of the Legislature is ended by the dissolution of the Legislature, the date of the dissolution shall for the purposes of this section be deemed to be the date of the prorogation. R.S.O. 1970, c. 446, s. 5 (2); 1974, c. 83, s. 2. Where  
Legislature  
dissolved

**(3)** Where an Act provides that it is to come into force on a day to be named by proclamation of the Lieutenant Governor, or Proclama-  
tions

that it is not to come into force until a day to be so named, any such proclamation may apply to the whole or any part or parts or portion or portions or section or sections of the Act, and proclamations may be issued at different times as to any part or parts or portion or portions or section or sections of the Act. R.S.O. 1970, c. 446, s. 5 (3).

Printing and  
distribution

**6.** The statutes shall be printed, published and distributed by the Queen's Printer in such manner as is from time to time prescribed by the Lieutenant Governor in Council and approved by resolution of the Assembly. R.S.O. 1970, c. 446, s. 6; 1973, c. 2, s. 4 (3).

Clerk to  
furnish  
copies of Acts  
to Queen's  
Printer

**7.** The Clerk of the Assembly shall furnish the Queen's Printer with a certified copy of every Act of the Legislature as soon as it has been assented to, or, if the Act has been reserved, as soon as the assent thereto has been signified. R.S.O. 1970, c. 446, s. 7; 1973, c. 2, s. 4 (3).

## CHAPTER 484

## Statutory Powers Procedure Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “Committee” means the Statutory Powers Procedure Rules Committee;
- (b) “licence” includes any permit, certificate, approval, registration or similar form of permission required by law;
- (c) “municipality” has the same meaning as in the *Municipal Affairs Act*, and includes a district, metropolitan and regional municipality and their local boards; R.S.O. 1980, c. 303
- (d) “statutory power of decision” means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,
  - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
  - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not;
- (e) “tribunal” means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute.

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to proceedings in the exercise of a statutory power of decision under the statute conferring the power, shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties. Meaning of “person” extended  
1971, c. 47, s. 1; 1972, c. 1, s. 104 (6);



## PART I

## MINIMUM RULES FOR PROCEEDINGS OF CERTAIN TRIBUNALS

Interpre-  
tation

**2.** In this Part,

- (a) "hearing" means a hearing in any proceedings;
- (b) "proceedings" means proceedings to which this Part applies. 1971, c. 47, s. 2.

Application  
of Part I

**3.**—(1) Subject to subsection (2), this Part applies to proceedings by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceedings an opportunity for a hearing before making a decision.

Where  
Part I  
does not  
apply

(2) This Part does not apply to proceedings,

- (a) before the Assembly or any committee of the Assembly;

- (b) in or before,

- (i) the Supreme Court,

- (ii) a county or district court,

- (iii) a surrogate court,

- (iv) a provincial court or a provincial offences court established under the *Provincial Courts Act*,

- (v) the Unified Family Court,

- (vi) a small claims court, or

- (vii) a justice of the peace;

- (c) to which the Rules of Practice and Procedure of the Supreme Court apply;

R.S.O. 1980,  
c. 25, 228

- (d) before an arbitrator to which the *Arbitrations Act* or the *Labour Relations Act* applies;

- (e) at a coroner's inquest;

R.S.O. 1980,  
c. 411

- (f) of a commission appointed under the *Public Inquiries Act*;

- (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he may have power to make; or
- (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. 1971, c. 47, s. 3, *revised*.

**4.** Notwithstanding anything in this Act and unless otherwise provided in the Act under which the proceedings arise, or the tribunal otherwise directs, any proceedings may be disposed of by, Disposition of proceedings without a hearing

- (a) agreement;
- (b) consent order; or
- (c) a decision of the tribunal given,
  - (i) without a hearing, or
  - (ii) without compliance with any other requirement of this Act,

where the parties have waived such hearing or compliance. 1971, c. 47, s. 4.

**5.** The parties to any proceedings shall be the persons specified as parties by or under the statute under which the proceedings arise or, if not so specified, persons entitled by law to be parties to the proceedings. 1971, c. 47, s. 5. Parties

**6.—(1)** The parties to any proceedings shall be given reasonable notice of the hearing by the tribunal. Notice of hearing

(2) A notice of a hearing shall include, Idem

- (a) a statement of the time, place and purpose of the hearing;
- (b) a reference to the statutory authority under which the hearing will be held; and
- (c) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in his absence and he will not be entitled to any further notice in the proceedings. 1971, c. 47, s. 6.

Effect of non-attendance at hearing after due notice

**7.** Where notice of a hearing has been given to a party to any proceedings in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in his absence and he is not entitled to any further notice in the proceedings. 1971, c. 47, s. 7.

Where character, etc., of a party is in issue

**8.** Where the good character, propriety of conduct or competence of a party is an issue in any proceedings, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. 1971, c. 47, s. 8.

Hearings to be public, exceptions

**9.**—(1) A hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing concerning any such matters *in camera*.

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at a hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. 1971, c. 47, s. 9.

Rights of parties to counsel, to examine witnesses, etc., at hearings

**10.** A party to proceedings may at a hearing,

(a) be represented by counsel or an agent;

(b) call and examine witnesses and present his arguments and submissions;

(c) conduct cross-examinations of witnesses at a hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence. 1971, c. 47, s. 10.

**11.**—(1) A witness at a hearing is entitled to be advised by his counsel or agent as to his rights but such counsel or agent may take no other part in the hearing without leave of the tribunal.

(2) Where a hearing is *in camera*, a counsel or agent for a witness is not entitled to be present except when that witness is giving evidence. 1971, c. 47, s. 11.

**12.**—(1) A tribunal may require any person, including a party, by summons,

- (a) to give evidence on oath or affirmation at a hearing; and
- (b) to produce in evidence at a hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceedings and admissible at a hearing.

(2) A summons issued under subsection (1) shall be in Form 1 and,

- (a) where the tribunal consists of one person, shall be signed by him; or
- (b) where the tribunal consists of more than one person, shall be signed by the chairman of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal; and
- (c) shall be served personally on the person summoned who shall be paid the like fees and allowances for his attendance as a witness before the tribunal as are paid for the attendance of a witness summoned to attend before the Supreme Court.

(3) Upon proof to the satisfaction of a judge of the Supreme Court of the service of a summons under this section upon a person and that,

- (a) such person has failed to attend or to remain in attendance at a hearing in accordance with the requirements of the summons;
- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and



(c) his presence is material to the ends of justice,

the judge may, by his warrant in Form 2, directed to any sheriff, police officer or constable, cause such witness to be apprehended anywhere within Ontario and forthwith to be brought before the tribunal and to be detained in custody as the judge may order until his presence as a witness before the tribunal is no longer required, or, in the discretion of the judge, to be released on a recognizance (with or without sureties) conditioned for appearance to give evidence.

Proof of  
service

(4) Service of a summons and payment of tender of fees or allowance may be proved by affidavit in an application under subsection (3).

Certificate  
of facts

(5) Where an application under subsection (3) is made on behalf of a tribunal, the person constituting the tribunal, or where the tribunal consists of two or more persons, the chairman thereof may certify to the judge the facts relied on to establish that the presence of the person summoned is material to the ends of justice and such certificate may be accepted by the judge as proof of such facts.

Idem

(6) Where an application under subsection (3) is made by a party to the proceedings, proof of the facts relied on to establish that the presence of the person summoned is material to the ends of justice may be by affidavit of such party. 1971, c. 47, s. 12.

Contempt  
proceedings

**13.** Where any person without lawful excuse,

(a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or

(b) being in attendance as a witness at a hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his power or control legally required by the tribunal to be produced by him or to answer any question to which the tribunal may legally require an answer; or

(c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on application of a party to the proceedings, state a case to the Divisional Court setting out the facts and that court may, on application

on behalf of and in the name of the tribunal or by such party, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1971, c. 47, s. 13.

**14.**—(1) A witness at a hearing shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence. Protection for witnesses

(2) A witness shall be informed by the tribunal of his right to object to answer any question under section 5 of the *Canada Evidence Act*. 1971, c. 47, s. 14. Right to object under R.S.C. 1970, c. E-10

**15.**—(1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court, What is admissible in evidence at a hearing

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject matter of the proceedings and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing, What is inadmissible in evidence at a hearing

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceedings arise or any other statute.

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings. Conflicts

(4) Where a tribunal is satisfied as to their authenticity, a copy of a document or other thing may be admitted as evidence at a hearing. Copies

Photo-  
copies

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified  
copy  
admissible in  
evidence

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a true copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. 1971, c. 47, s. 15.

Notice of  
facts and  
opinions

**16.** A tribunal may, in making its decision in any proceedings,

- (a) take notice of facts that may be judicially noticed; and
- (b) take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge. 1971, c. 47, s. 16.

Decision

**17.** A tribunal shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefor if requested by a party. 1971, c. 47, s. 17.

Notice of  
decision

**18.** A tribunal shall send by first class mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the tribunal, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor, where reasons have been given, and each party shall be deemed to have received a copy of the decision or order on the fifth day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the copy of the decision or order until a later date. 1971, c. 47, s. 18.

Enforcement  
of decision

**19.—(1)** A certified copy of a final decision and order, if any, of a tribunal in any proceedings may be filed in the office of the Registrar of the Supreme Court by the tribunal or by a party and, if it is for the payment of money, it may be enforced at the instance of the tribunal or of such party in the name of the tribunal in the same manner as a judgment of that court, and in all other cases by an application by the tribunal or by such party to the court for such order as the court may consider just.

(2) Where a tribunal having power to do so makes an order <sup>Idem</sup> or decision rescinding or varying an order or decision previously made by it that has been filed under subsection (1), upon filing in accordance with subsection (1) the order or decision rescinding or varying the order or decision previously made,

- (a) if the order or decision rescinds the order or decision previously made, the order or decision previously made ceases to have effect for the purposes of subsection (1); or
- (b) if the order or decision varies the order or decision previously made, the order or decision previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1). 1971, c. 47, s. 19.

**20.** A tribunal shall compile a record of any proceedings <sup>Record of proceedings</sup> in which a hearing has been held which shall include,

- (a) any application, complaint, reference or other document, if any, by which the proceedings were commenced;
- (b) the notice of any hearing;
- (c) any intermediate orders made by the tribunal;
- (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceedings;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the decision of the tribunal and the reasons therefor, where reasons have been given. 1971, c. 47, s. 20.

**21.** A hearing may be adjourned from time to time by a <sup>Adjournments</sup> tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. 1971, c. 47, s. 21.

**22.** A member of a tribunal has power to administer oaths <sup>Adminis-  
tration of oaths</sup> and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. 1971, c. 47, s. 22.



Abuse of  
processes

**23.**—(1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.

Limitation  
on cross-  
examination

(2) A tribunal may reasonably limit further cross-examination of a witness where it is satisfied that the cross-examination of the witness has been sufficient to disclose fully and fairly the facts in relation to which he has given evidence.

Exclusion  
of agents

(3) A tribunal may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 1971, c. 47, s. 23.

Notice, etc.

**24.**—(1) Where a tribunal is of opinion that because the parties to any proceedings before it are so numerous or for any other reason, it is impracticable,

(a) to give notice of the hearing; or

(b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents  
of notice

(2) A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. 1971, c. 47, s. 24.

Appeal  
operates  
as stay,  
exception

**25.**—(1) Unless it is expressly provided to the contrary in the Act under which the proceedings arise, an appeal from a decision of a tribunal to a court or other appellate tribunal operates as a stay in the matter except where the tribunal or the court or other body to which the appeal is taken otherwise orders.

Idem  
R.S.O. 1980,  
c. 224

(2) An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the meaning of subsection (1). 1971, c. 47, s. 25.

## PART II

### STATUTORY POWERS PROCEDURE RULES COMMITTEE

**26.**—(1) The committee known as the Statutory Powers Procedure Rules Committee is continued and shall be composed of, <sup>Rules Committee, composition</sup>

- (a) the Deputy Attorney General who shall be chairman of the Committee, but in his absence or at his request his nominee shall act in his place;
- (b) the chairman of the Ontario Law Reform Commission;
- (c) a judge of the Supreme Court, appointed by the Lieutenant Governor in Council;
- (d) a senior official in the public service of Ontario who is or has been a member of a tribunal to whose proceedings Part I applies, appointed by the Lieutenant Governor in Council;
- (e) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council;
- (f) a representative of the public who is not a member of the public service of Ontario, appointed by the Lieutenant Governor in Council; and
- (g) a professor of administrative law on the law faculty of a university in Ontario, appointed by the Lieutenant Governor in Council.

(2) A majority of the members of the Committee may <sup>Quorum</sup> exercise all the powers of the Committee. 1971, c. 47, s. 26; 1972, c. 1, s. 9 (7).

**27.** It is the duty of the Committee,

<sup>Duties</sup>

- (a) to maintain under continuous review the practice and procedure in proceedings to which Part I applies;
- (b) to maintain under continuous review the practice and procedure, before,
  - (i) tribunals upon which a statutory power of decision is conferred by or under an Act of the Legislature but which is not required under such Act or otherwise by law to afford

to the parties to the proceedings an opportunity for a hearing before making a decision, and

- (ii) a body coming within clause 3 (2) (e) or (g).  
1971, c. 47, s. 27.

Rules to be  
made only  
after  
consultation  
with  
Committee

**28.** No rules of procedure to govern the proceedings of a tribunal to which Part I applies shall be made or approved except after consultation with the Committee. 1971, c. 47, s. 28.

Report of  
rules to  
Committee

**29.** The Committee may require a tribunal to which Part I applies or coming within clause 27 (b) to report to the Committee the rules of procedure governing its proceedings or, where there are no such rules, information as to the procedure followed by it and to formulate and report to the Committee rules to govern its proceedings. 1971, c. 47, s. 29.

Additional  
powers of  
tribunals to  
make rules

**30.** Where power is conferred to make rules of procedure governing the proceedings of a tribunal to which Part I applies, such power shall include power,

- (a) notwithstanding section 15, to require that findings of fact of the tribunal be based exclusively on evidence admissible under the law of evidence and on matters that may be judicially noticed or of which notice may be taken under section 16 or on evidence admissible under section 15 and on matters of which notice may be taken under section 16;
- (b) to require the oral evidence admitted at a hearing before the tribunal to be recorded;
- (c) to limit investigation or consultation concerning the subject-matter of any proceedings by members of the tribunal prior to the hearing;
- (d) to require that any member of the tribunal participating in a decision of the tribunal shall have been present throughout the hearing. 1971, c. 47, s. 30.

Secretary to  
Committee

**31.** The Attorney General may assign one or more members of the staff of the Ministry of the Attorney General to be secretary or secretaries of the committee and the committee may prescribe the duties of the secretary or secretaries. 1971, c. 47, s. 31; 1972, c. 1, s. 9 (7).

Conflict

**32.** Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it

apply notwithstanding anything in this Act, the provisions of this Act and of rules made under section 33 prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. 1971, c. 47, s. 32.

**33.** Subject to the approval of the Lieutenant Governor in Council, the Committee may make rules respecting the reporting, editing and publication of decisions of the tribunals to which Part I Applies. 1971, c. 47, s. 33.

**34.** The Committee shall report annually to the Attorney General. 1971, c. 47, s. 34; 1972, c. 1, s. 9 (7).



## FORM 1

(Section 12 (2) )

(Name of Act under which proceedings arise)

SUMMONS TO A WITNESS BEFORE.....(*name of tribunal*).....

RE:

TO:

You are hereby summoned and required to attend before the

.....(*name of tribunal*).....

at a hearing to be held

at.....in the.....of.....

on.....day, the.....day of.....

19....., at the hour of .....o'clock in the..... noon (local time),  
 and so from day to day until the hearing is concluded or the tribunal  
 otherwise orders, to give evidence on oath touching the matters in question  
 in the proceedings and to bring with you and produce at such time and  
 place.....

.....

.....

Dated this.....day of....., 19.....

(*name of tribunal*)

.....

Member of Tribunal

## NOTE:

You are entitled to be paid the same personal allowances for your  
 attendance at the hearing as are paid for the attendance of a witness  
 summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the hearing, or to produce  
 the documents or things specified, at the time and place specified, without  
 lawful excuse, you are liable to punishment by the Supreme Court in  
 the same manner as if for contempt of that court for disobedience to  
 a subpoena.

1971, c. 47, Form 1.

FORM 2

(Section 12 (3) )

BENCH WARRANT

PROVINCE OF ONTARIO

TO A.B., Sheriff, etc.

WHEREAS proof has been made before me that C.D. was duly summoned to appear before the (name of tribunal)..... at the hearing of the said tribunal at Toronto (or as the case may be) on the.....day of....., 19....; that the presence of the said C.D. is material to the ends of justice, and that the said C.D. has failed to attend in accordance with the requirements of the summons.

THESE are therefore to command you to take the said C.D. to bring and have him before the said tribunal at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the proceedings before the said tribunal, and that you detain him in your custody until he has given his evidence or until the said sittings have ended or until other orders may be made concerning him.

GIVEN UNDER MY HAND this.....day of....., 19...., at.....

.....  
Judge, S.C.O.

1971, c. 47, Form 2.



## CHAPTER 485

## St. Clair Parkway Commission Act

**1.** In this Act,Interpre-  
tation

- (a) “Commission” means The St. Clair Parkway Commission;
- (b) “Minister” means the Minister of Natural Resources or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) “Parks” means all land and interests in land in the counties of Kent and Lambton and in the cities of Chatham and Sarnia hereafter acquired by, vested in or placed under the control of the Commission, including highways, roads and boulevards;
- (d) “participating municipalities” means The Corporation of the County of Kent, The Corporation of the County of Lambton, The Corporation of the City of Chatham and The Corporation of the City of Sarnia. 1966, c. 146, s. 1.

**2.—(1)** The corporation without share capital known as The St. Clair Parkway Commission is continued and shall be composed of not more than eleven members as follows:

Commission  
continued,  
composition

- (a) two persons appointed annually by the council of the County of Lambton;
- (b) two persons appointed annually by the council of the City of Sarnia;
- (c) one person appointed annually by the council of the County of Kent;
- (d) one person appointed annually by the council of the City of Chatham; and
- (e) not more than five persons appointed by the Lieutenant Governor in Council for terms of not more than three years,

but each member shall hold office until his successor is appointed.



Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council shall designate one member as chairman and may designate one member as vice-chairman.

Remunera-  
tion

(3) The chairman, the vice-chairman, if any, and the other members of the Commission may be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Acting  
chairman

(4) In the case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purpose shall act as and have all the powers of the chairman.

Vacancies

(5) Where a vacancy occurs on the Commission, the body that made the appointment of the member whose office is vacant may appoint a member to hold office for the remainder of the term of his predecessor.

Members of  
Assembly  
R.S.O. 1980,  
c. 235

(6) Notwithstanding the *Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and is entitled to act as such and receive remuneration therefor without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly.

Members of  
council  
R.S.O. 1980,  
c. 302

(7) Subsection 38 (1) of the *Municipal Act* does not apply to a member of a municipal council by reason only of his being a member of the Commission or of his being entitled to or receiving remuneration as a member of the Commission.

Quorum

(8) The powers of the Commission may be exercised by a quorum of not fewer than seven members, but, where the number of members present at a meeting is fewer than ten, any decision of the Commission must have the approval of at least five members.

Local board  
R.S.O. 1980,  
c. 303

(9) The Commission is a local board within the meaning of the *Municipal Affairs Act*. 1966, c. 146, s. 2.

General  
powers and  
duties

**3.** It is the duty of the Commission to develop, control, manage, operate and maintain the Parks, and, for the purpose of carrying out such duty, the Commission has power,

(a) to make such by-laws, rules and orders as may be deemed expedient for the administration and management of the affairs and the conduct of the business of the Commission;

(b) to acquire, construct, operate, maintain and generally manage and provide recreational facilities, archaeological and historic sites, restaurants, refreshment

booths, stands for the sale of souvenirs and other wares, shops, sanitary and toilet facilities, buses and other vehicles for use in connection with the Parks, boats and boat lines, camp sites and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of the Parks;

- (c) to enter into agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (d) to study and investigate the Parks and to determine a scheme whereby the Parks may be most advantageously developed and maintained; and
- (e) to enter into agreements with owners of lands to facilitate the development, operation or maintenance of the Parks. 1966, c. 146, s. 3.

**4.—**(1) With the approval of the Lieutenant Governor in Council, the Commission has power to acquire by purchase, lease or otherwise and, with or without the consent of the owner, enter upon, take and expropriate and sell or otherwise dispose of any land or any interest in land. Qualified powers

(2) Where the Commission desires to expropriate land under the power conferred by subsection (1), it shall, in addition to the requirements of the *Expropriations Act*, register in the proper land registry office a certified copy of the order in council approving such expropriation. 1966, c. 146, s. 4. Expropriation  
R.S.O. 1980,  
c. 148

**5.—**(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may vest any highway under the jurisdiction and control of the Ministry of Transportation and Communications in the Commission, and thereafter the Commission shall have exclusive jurisdiction over it. Highways

(2) The Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof. 1966, c. 146, s. 5. Idem

**6.** The Commission may appoint such officers, clerks and other employees as may be necessary for the purposes of the Commission and shall fix their salaries, wages or other remuneration. 1966, c. 146, s. 6. Appointment of employees

Determina-  
tion of  
capital  
expenditure

7.—(1) The Commission may from time to time determine what moneys will be required for capital expenditures in connection with the Parks.

Portion to  
be raised by  
participat-  
ing muni-  
cipalities

(2) The portion of the moneys so required that each participating municipality shall raise shall be determined by the Commission, subject to the approval of at least three of the participating municipalities.

Notice of  
apportion-  
ment

(3) When the Commission has determined the portion that each participating municipality shall raise, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by registered mail.

Review of  
apportion-  
ment by  
O.M.B.

(4) Any participating municipality that is dissatisfied with any such apportionment may, within one month after it receives notice of the apportionment, notify the secretary of the Ontario Municipal Board and the Commission in writing by registered mail that it applies for a review of the apportionment by the Ontario Municipal Board.

Hearing

(5) Upon such application, the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

Powers of  
O.M.B. on  
hearing

(6) The Ontario Municipal Board has authority to take evidence, to confirm or vary the apportionment of the Commission and to fix and award costs, and its decision is final and conclusive and is not open to appeal.

How money  
to be raised

(7) Subject to the approval of the Ontario Municipal Board, each participating municipality shall raise by the issue of debentures or otherwise its portion of the moneys required by the Commission for capital expenditure as apportioned by the Commission or by the Ontario Municipal Board on an appeal.

Limited  
benefit in  
city

(8) Where the council of a participating city is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the city, the council may by by-law provide that a specified portion of the moneys required to be raised by the city for capital expenditure in connection with that work shall be raised by a special rate upon the rateable property in that area, which area shall be defined in the by-law, and the balance of such moneys shall be raised by a special rate upon the rateable property in the remaining portion of the city.

Limited  
benefit  
in county

(9) Where the council of a participating county is of opinion that the major part of the benefit to be derived from a specific work accrues to a certain local municipality or local municipalities that form part of the county for municipal purposes, the council

may by by-law provide that a specified portion of the moneys required to be raised by the county for capital expenditure in connection with that work shall be raised by a special rate upon the rateable property of such local municipality or municipalities, and the balance of such moneys shall be raised by a special rate upon the rateable property in the remaining local municipalities that form part of the county for municipal purposes. 1966, c. 146, s. 7.

**8.**—(1) The Commission in each year shall prepare and adopt estimates of all sums required during the year for the purposes of the Commission, and such estimates, Estimates

- (a) shall set forth the estimated revenues and expenditures of the Commission;
- (b) shall make due allowance for a surplus of the previous year that will be available during the current year;
- (c) shall provide for any deficit of any previous year; and
- (d) may provide for capital expenditures to be made out of current funds.

(2) After the adoption of the estimates, the Commission shall, subject to the approval of at least three of the participating municipalities, determine the proportion of the moneys required for the purposes of the Commission to be raised by each participating municipality. Apportionment

(3) The chairman of the Commission shall, on or before the last day of February in each year, give notice in writing to the treasurer of each participating municipality of the amount that such participating municipality shall raise for the Commission. 1966, c. 146, s. 8. Notice of amount to be raised by each participating municipality

**9.** All moneys required to be raised by a participating municipality under the authority of section 7 or 8 shall be deemed to be taxes and are a debt of the participating municipality to the Commission, and the treasurer of each participating municipality shall pay the moneys so required to be raised to the Commission in equal quarterly payments. 1966, c. 146, s. 9. Moneys to be raised, debt to Commission

**10.** Notwithstanding sections 7 and 8, no participating municipality shall be required to raise in any year, Limit on levy

- (a) an amount under section 7 that exceeds the proceeds of a rate of one-quarter mill on the dollar of the rateable property of the participating municipality according to the last revised assessment roll as adjusted by the latest



equalization factor provided by the Ministry of Revenue; and

- (b) an amount under section 8 that exceeds the proceeds of a rate of one-quarter mill on the dollar of the rateable property of the participating municipality according to the last revised assessment roll as adjusted by the latest equalization factor provided by the Ministry of Revenue,

unless in that year the council of the participating municipality agrees with the Commission to raise an amount in excess of that provided for in clause (a) or (b). 1966, c. 146, s. 10.

Local  
improve-  
ment works

R.S.O. 1980,  
c. 250

**11.** The Commission and any municipality within which any of the Parks are situate or that adjoin or are within five kilometres of the Parks may enter into agreement as to any work of any of the characters or descriptions mentioned in the *Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise. 1966, c. 146, s. 11; 1978, c. 87, s. 31 (1).

Assent of  
electors not  
necessary

**12.** Where by this Act any power is conferred or duty imposed upon a municipality or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. 1966, c. 146, s. 12.

Moneys to  
be paid to  
Commission

**13.** All moneys required by this Act to be raised for the purposes of the Commission shall be paid to the Commission, and the Commission may spend such moneys for its purposes. 1966, c. 146, s. 13.

Grants

**14.** The Minister may make grants to the Commission, which shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 146, s. 14, *revised*.

Books of  
account

**15.** The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, or any person designated by a participating municipality for that purpose, and any such person may make copies of or take extracts from the books. 1966, c. 146, s. 15.

Security by  
officers

**16.** Every person who is entrusted by the Commission with the custody or control of money in the course of his employment

shall give security in the manner and form provided by the *Public Officers Act*. 1966, c. 146, s. 16. R.S.O. 1980,  
c. 415

**17.** The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates. Audit  
1966, c. 146, s. 17.

**18.** The Commission shall make a report annually to the Minister and to each of the participating municipalities, containing such information as the Minister may require. 1966, c. 146, s. 18. Annual  
report

**19.—(1)** The Commission, with the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of the Parks and the works, vehicles, boats and recreational facilities and services under the jurisdiction of the Commission and for entrance to places of historic and scenic interest or any other occupation or use of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof, and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof, and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within 400 metres of any part thereof;
- (g) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;
- (h) for imposing fines not exceeding \$300 for any breach of any regulation;

- (i) for such other purposes and objects as are deemed necessary for the carrying out of this Act. 1966, c. 146, s. 19 (1); 1978, c. 87, s. 31 (2).

## Offences

R.S.O. 1980,  
c. 400

(2) An offence against any regulation made under this Act is punishable under the *Provincial Offences Act*, and the fine for any such offence is payable to the Treasurer of Ontario. 1966, c. 146, s. 19 (2).

R.S.O. 1980,  
c. 95  
not to apply

**20.** The *Corporations Act* does not apply to the Commission. 1966, c. 146, s. 20.

Current  
borrowings

**21.** After the Commission has adopted its estimates in any year, it may borrow from time to time by way of promissory note such sums as it may consider necessary to meet, until its revenues are received, the current expenditures of the Commission for the year, but the amount that may be borrowed at any one time, together with the total of any similar borrowings that have not been repaid, shall not exceed 70 per cent of the unreceived balance of the estimated revenues of the Commission as set forth in its estimates adopted for the year. 1966, c. 146, s. 21.

Lost  
property

**22.—(1)** Any lost, mislaid or abandoned property coming into the custody of the Commission or any employee of the Commission in charge of part of the Parks and not claimed by the owner within three months is the property of the Commission and may be sold under the direction of the Commission, but, where any such property is perishable or has no commercial value, it may be given to a charitable institution or destroyed.

## Idem

(2) Where a person establishes to the satisfaction of the Commission within one year of the date of the sale that he was the owner of property sold under subsection (1), the Commission may direct the payment to such person of an amount equal to the price received for the property less the cost of the sale and other expenses incurred in connection with the property. 1966, c. 146, s. 22.

## CHAPTER 486

## St. Lawrence Parks Commission Act

## 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The St. Lawrence Parks Commission;
- (b) "Minister" means the Minister of Natural Resources or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) "Parks" means all land in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds vested in or placed under the control of the Commission, including highways, roads and boulevards and any interest in land. R.S.O. 1970, c. 447, s. 1; O. Reg. 171/72.

2.—(1) The St. Lawrence Parks Commission is continued as a corporation without share capital, and shall be composed of not fewer than three and not more than fifteen members appointed by the Lieutenant Governor in Council.

Commission  
continued

(2) The Lieutenant Governor in Council shall designate one member as chairman and may designate one member as vice-chairman.

Chairman,  
vice-  
chairman

(3) The chairman and the vice-chairman, if any, shall be paid such salary as is fixed by the Lieutenant Governor in Council.

Remunera-  
tion of  
chairman  
and vice-  
chairman

(4) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purpose shall act as and have all the powers of the chairman.

Acting  
chairman

(5) Vacancies in the membership of the Commission may be filled by the Lieutenant Governor in Council.

Vacancies

(6) Notwithstanding the *Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and be entitled to act as such without

Members of  
Assembly  
R.S.O. 1980,  
c. 235



thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly.

**Quorum**

(7) The powers of the Commission may be exercised by a majority of the members. R.S.O. 1970, c. 447, s. 2.

**Staff**

**3.**—(1) The Lieutenant Governor in Council may appoint such officers, clerks or other employees as may be necessary for the purposes of the Commission and shall fix their salaries, wages or other remuneration.

**Idem**

R.S.O. 1980,  
c. 418

(2) All such officers, clerks or other employees so appointed are subject to the *Public Service Act* and are civil servants within the meaning of that Act. R.S.O. 1970, c. 447, s. 3.

**Expenses**

**4.** All expenditures, costs, charges and expenses incurred and payable in respect of the carrying out of this Act, including the salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof and including all capital expenditures authorized by the Lieutenant Governor in Council, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 447, s. 4.

**General  
powers and  
duties**

**5.**—(1) It is the duty of the Commission to develop, control, manage, operate and maintain the Parks and for the purposes of carrying out such duty the Commission has power,

- (a) to make such by-laws, rules and orders as may be considered expedient for the constitution of the Commission and the administration and management of its affairs and the conduct of its business;
- (b) to acquire, construct, operate, maintain and generally manage and provide recreational facilities, restaurants, refreshment booths, stands for the sale of souvenirs and other wares, shops, sanitary and toilet facilities, buses and other vehicles for use in connection with the Parks, boats and boat lines, camp sites and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of the Parks;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (d) to operate and maintain a school for the training of apprentice gardeners;

- (e) to receive and take from any person by grant, gift, devise, bequest or otherwise any property real or personal or any interest therein.

(2) It is the duty of the Commission to investigate and inquire into any matter or subject affecting or incidental to the welfare of the municipalities in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds, or any of them, or the inhabitants thereof as may be referred to the Commission by a member of the Executive Council or any such municipality or inhabitant, and the Commission may report thereon to such member, municipality or inhabitant or any of them. General power to investigate matters upon request of Minister, municipality or inhabitant  
 R.S.O. 1970, c. 447, s. 5.

**6.** With the approval of the Lieutenant Governor in Council, the Commission has power, Qualified powers

- (a) to acquire by purchase, lease or otherwise and with or without the consent of the owner enter upon, take and expropriate and sell or otherwise dispose of any land or any interest in land;
- (b) to construct or acquire by purchase, lease or otherwise and operate and maintain bridges over the St. Lawrence River. R.S.O. 1970, c. 447, s. 6.

**7.—**(1) The Commission in the exercise of its powers to take land compulsorily has all the powers conferred by the *Ministry of Government Services Act* on the Minister of Government Services in relation to a public work, and in the application of this section where the words “the Minister”, “the Ministry” or “the Crown” appear in such Act they, where the context permits, mean the Commission, and the taking of such land by the Commission shall be deemed to be for the public purposes of Ontario. Expropriation  
 R.S.O. 1980, c. 279  
 R.S.O. 1970, c. 447, s. 7 (1); 1972, c. 1, s. 1; 1973, c. 2, s. 2.

(2) The Commission shall proceed in the manner provided by the *Expropriations Act* and all the provisions of that Act apply. Procedure  
 R.S.O. 1980, c. 148  
 R.S.O. 1970, c. 447, s. 7 (2).

**8.—**(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may from time to time vest any highway, Highways

- (a) under the jurisdiction and control of the Ministry of Transportation and Communications; or
- (b) under the jurisdiction of a municipality,

in the Commission and thereafter the Commission has exclusive jurisdiction over the highway. R.S.O. 1970, c. 447, s. 8 (1); 1972, c. 1, s. 100 (2).

**Agreements**

(2) The Commission and the Minister of Transportation and Communications or the Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof. R.S.O. 1970, c. 447, s. 8 (2); 1972, c. 1, s. 100 (2).

**Liability**

(3) Where by an agreement made under subsection (2),

R.S.O. 1980,  
c. 421

(a) the Minister of Transportation and Communications undertakes to maintain and repair a highway, section 33 of the *Public Transportation and Highway Improvement Act* applies in respect of the highway; and

R.S.O. 1980,  
c. 302

(b) a municipality undertakes to maintain and repair a highway, section 284 of the *Municipal Act* applies in respect of the highway,

and no action arising out of the duty to maintain and repair the highway lies against the Commission. R.S.O. 1970, c. 447, s. 8 (3); 1971, c. 61, s. 1; 1972, c. 1, s. 100 (2).

**Indemnity**

(4) Where the Crown or a municipal corporation is liable for damages sustained by any person by reason of failure to maintain or repair a highway under the jurisdiction of the Commission, the Commission shall indemnify the Crown or the municipal corporation, as the case may be, for all damages and costs incurred in respect of such liability.

Application of  
R.S.O. 1980,  
cc. 198, 301

(5) The *Highway Traffic Act* and the *Motorized Snow Vehicles Act* and the regulations made thereunder apply to any highway or portion thereof under the jurisdiction of the Commission and designated under subsection 9 (1) as if such highway or portion thereof is the King's Highway. R.S.O. 1970, c. 447, s. 8 (4, 5).

Controlled-  
access  
highways

**9.—**(1) The Lieutenant Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled-access highway. R.S.O. 1970, c. 447, s. 9 (1).

(2) Section 38 of the *Public Transportation and Highway Improvement Act* applies with necessary modifications to any portion of any of the highways, roads, boulevards or parkways designated under subsection (1) and for such purpose any reference in the said section 38 to Minister or Ministry shall be deemed to be a reference to the Commission. R.S.O. 1970, c. 447, s. 9 (2); 1971, c. 61, s. 1; 1972, c. 1, s. 1. Application of R.S.O. 1980, c. 421, s. 38

**10.**—(1) The Lieutenant Governor in Council may by regulation designate as a scenic area such land in the vicinity of any highway designated under subsection 9 (1) as is specified in the regulation. Scenic areas

(2) Subject to the approval of the Lieutenant Governor in Council, the Commission may, in respect of land within a scenic area, by regulation, exercise any of the powers conferred upon councils of municipalities by section 39 of the *Planning Act* without the approval of the Ontario Municipal Board. Restricted areas R.S.O. 1980, c. 379

(3) In the event of conflict between a regulation made under subsection (2) by the Commission and a by-law passed under section 39 of the *Planning Act*, or a predecessor thereof, by the municipality in which the land is situate, the regulation made by the Commission prevails to the extent of such conflict, but in all other respects the by-law passed by the municipality remains in full force and effect. R.S.O. 1970, c. 447, s. 10. Conflict of regulations and by-laws

**11.**—(1) The Commission may enter into agreement with any municipality within which any lands of the Commission are situate or that adjoins or is within three miles of the lands of the Commission as to any work of any of the characters or descriptions mentioned in the *Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission is not liable in any way for assessment under the *Local Improvement Act* for the cost of any such work, whether the lands abut directly on the work or otherwise. Local improvement works R.S.O. 1980, c. 250

(2) It is not necessary to submit any agreement entered into under this section for the assent of the electors of the municipality, nor is it necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. R.S.O. 1970, c. 447, s. 11. Idem



Lands  
exempt from  
taxation

**12.** All lands of the Commission wherever situate are exempt from assessment or taxation by any municipality. R.S.O. 1970, c. 447, s. 12.

Books of  
account

**13.** The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. R.S.O. 1970, c. 447, s. 13.

Security  
by officers

**14.** Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by the *Public Officers Act*. R.S.O. 1970, c. 447, s. 14.

R.S.O. 1980,  
c. 415

Audit

**15.** The books and records of the Commission shall be examined annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate. R.S.O. 1970, c. 447, s. 15.

Lost,  
misaid or  
abandoned  
property

**16.—(1)** Any lost, misaid or abandoned property coming into the custody of an officer or employee of the Commission and not claimed by the owner within three months is the property of the Crown in right of Ontario and may be sold under the direction of the Minister, but, where any such property is perishable or has no commercial value, it may be given to a charitable institution or destroyed.

Idem

**(2)** Where a person establishes to the satisfaction of the Minister within one year of the date of sale that he was the owner of property sold under subsection (1), the Minister may direct the payment to such person of an amount equal to the price received for the property less the costs referable to the sale and other expenses incurred in connection with the property. R.S.O. 1970, c. 447, s. 16.

Annual  
report

**17.—(1)** The Commission shall file a report annually with the Minister containing such information as the Minister may require.

Tabling

**(2)** The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 447, s. 17.

**18.**—(1) The Commission, with the approval of the <sup>Regulations</sup> Lieutenant Governor in Council, may make regulations,

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of Park lands and works, vehicles, boats, recreational facilities and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the Parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks;
- (g) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;
- (h) licensing, regulating and governing guides and prescribing fees for such licences;
- (i) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;
- (j) for imposing fines not exceeding \$100 for any breach of any regulation;
- (k) for such purposes and objects as are deemed necessary for the carrying out of this Act.

(2) Any regulation made under subsection (1) may be general or <sup>Idem</sup> particular in its application.

Offence

R.S.O. 1980,  
c. 400

(3) An offence against a regulation made under this Act is punishable under the *Provincial Offences Act*. R.S.O. 1970, c. 447, s. 18.

Rights of  
interment  
not affected

**19.** Nothing in this Act authorizes the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act confers the right to remove any body there interred. R.S.O. 1970, c. 447, s. 19.

R.S.O. 1980,  
c. 95  
not appli-  
cable

**20.** The *Corporations Act* does not apply to the Commission. R.S.O. 1970, c. 447, s. 20.

## CHAPTER 487

### Stock Yards Act

#### 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Stock Yards Board;
- (b) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (c) "manager" means the manager appointed under this Act;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "regulations" means the regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes. R.S.O. 1970, c. 448, s. 1.

2.—(1) The Ontario Stock Yards Board heretofore constituted is continued as a body corporate. Ontario  
Stock Yards  
Board

(2) The Board shall have a corporate seal in the form prescribed in the regulations. Seal

(3) The Board shall consist of not more than nine persons appointed by the Lieutenant Governor in Council. Members  
of Board

(4) The Lieutenant Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman. Chairman,  
vice-  
chairman

(5) A majority of the members of the Board constitutes a quorum. Quorum

(6) The members of the Board shall receive such fees and expenses as the Lieutenant Governor in Council may determine, and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 448, s. 2. Allowances  
and  
expenses



## Officers

**3.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint a manager of any stock yard that it operates and such officers as are prescribed in the regulations and fix their remuneration, and the appointment of any person as a manager or other officer does not disqualify him from acting as chairman, vice-chairman or a member of the Board.

## Employees

(2) Subject to the approval of the Board, the manager of a stock yard may appoint such employees as he considers necessary and fix their salaries or other remuneration. R.S.O. 1970, c. 448, s. 3.

## Objects

**4.**—(1) The objects of the Board are,

- (a) to acquire, construct, equip and operate live-stock markets, and to acquire and operate such facilities for the transportation of live stock as may be necessary for the purposes of such markets; and
- (b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

## Power to borrow money and issue securities

(2) The Board has power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine.

General powers  
R.S.O. 1980,  
c. 95

(3) The Board has the powers set out in sections 23 and 275 of the *Corporations Act*. R.S.O. 1970, c. 448, s. 4.

## Acquiring land, etc.

**5.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board,

- (a) has power to acquire by purchase, lease or in any other manner or without the consent of the owner thereof to enter upon, take possession of, expropriate and use,
  - (i) the land, property, assets and undertakings of Union Stock Yards of Toronto, Limited,
  - (ii) the land, property, assets and undertakings of any other stock yards, and
  - (iii) any other land or property that it considers necessary for its undertakings; and

(b) has and may exercise and enjoy in addition to the powers conferred by this Act, all the powers conferred upon the Minister of Government Services in relation to a public work by the *Ministry of Government Services Act* and in the application of this section were the words “the Minister”, “the Ministry” or “the Crown” appear in such Act, they, where the context permits, mean the Board. R.S.O. 1970, c. 448, s. 5 (1); 1972, c. 1, s. 1; 1973, c. 2, s. 2. R.S.O. 1980,  
c. 279

(2) The Board shall, in the exercise of its compulsory powers authorized by this section, proceed in the manner provided by the *Expropriations Act* and all the provisions of that Act apply. Procedure  
R.S.O. 1980,  
c. 148

(3) No action or proceeding of the Board taken pursuant to this section shall be restrained by injunction or process or proceeding in any court. R.S.O. 1970, c. 448, s. 5 (2, 3). Exercise  
of powers  
not to be  
enjoined

**6.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, and repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board. Guarantee  
by Province

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 448, s. 6. Form of  
guarantee

**7.**—(1) All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to, Application

- (a) operating expenses;
- (b) payment of interest on indebtedness;
- (c) repayment of principal moneys borrowed; and
- (d) improvement of its premises and facilities, including the purchase of fixed assets.

(2) Subject to subsection (4), any surplus moneys remaining in any year after the payments mentioned in subsection (1) are made in that year shall, where such moneys are not immediately required for the purposes of subsection (1), be used to establish and maintain a reserve fund, Surplus  
moneys

- (a) the amount of which shall not exceed \$500,000;
- (b) the interest from which shall be used by the Board for the operation of its undertakings; and

- (c) the principal of which may from time to time be used by the Board for any purpose approved by the Lieutenant Governor in Council upon the recommendation of the Board and the Minister.

Reserve  
fund

(3) Moneys used to establish and maintain the reserve fund shall be paid to the Treasurer of Ontario and deposited in the Consolidated Revenue Fund and shall constitute a fund to be known as the Ontario Stock Yards Board Reserve Fund and section 7 of the *Financial Administration Act* applies thereto.

R.S.O. 1980,  
c. 161

Use of  
surplus  
moneys

(4) In any year in which the amount of the reserve fund is \$500,000, the surplus moneys referred to in subsection (2) shall be used to reduce the fees charged by the Board for services provided at any stock yard that it operates. 1975, c. 57, s. 1.

Annual  
report of  
Board

8. The Board shall, not later than the 31st day of January in every year, make an annual report to the Minister upon its operations during the preceding year and such report shall be laid before the Assembly as soon as may be. R.S.O. 1970, c. 448, s. 8.

Audit

9. The books and accounts of the Board shall be audited and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates and the auditor shall make an annual report to the Treasurer of Ontario. R.S.O. 1970, c. 448, s. 9.

Authority  
to sue and  
be sued

10. The Board may be sued and may institute or defend proceedings in any court. R.S.O. 1970, c. 448, s. 10.

Taxation

11. The real and personal property, business and income of the Board are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1970, c. 448, s. 11.

Operation  
of stock  
yards

12. No person, other than the Board, shall construct, maintain or operate any stock yard or any premises where live stock is assembled for the purpose of sale either directly or indirectly to an abattoir, packing house or slaughter house except with the approval of the Board, but this section does not apply to any such stock yard or premises that was so operated on the 12th day of May, 1944, so long as such stock yard or premises is not extended or enlarged. R.S.O. 1970, c. 448, s. 12.

Appeal to  
Minister

13. Where the Board refuses an approval requested under section 12, the applicant for approval may appeal the decision of the Board to the Minister who, after affording the applicant

an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final. 1971, c. 50, s. 80.

**14.** Subject to the approval of the Lieutenant Governor in Regulations Council, the Minister may make regulations,

- (*a*) prescribing the officers of the Board and prescribing the powers and duties of such officers and of any manager;
  - (*b*) prescribing the form of the seal of the Board;
  - (*c*) limiting or regulating the objects and powers of the Board or the exercise thereof;
  - (*d*) prescribing the records, books and accounts to be kept by the Board;
  - (*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 448, s. 13.





## CHAPTER 488

### Succession Law Reform Act

**1.—(1)** In this Act,

Interpre-  
tation

(a) “child” means a child born within or outside marriage, subject to sections 86 and 87 of the *Child Welfare Act* (which relate to the effect of adoption), and includes a child conceived before and born alive after the death of the parent;

R.S.O. 1980,  
c. 66

(b) “grandchild” means the child of a child;

(c) “issue” means any lineal descendant of a person, whether born within or outside marriage, subject to sections 86 and 87 of the *Child Welfare Act* (which relate to the effect of adoption), and includes issue conceived before and born alive after the death of the person;

(d) “parent” means the father or mother of a child;

(e) “personal representative” means an executor, an administrator or an administrator with will annexed;

(f) “property” means real or personal property;

(g) “will” includes,

(i) a testament,

(ii) a codicil,

(iii) an appointment by will or by writing in the nature of a will in exercise of a power, and

(iv) any other testamentary disposition.

(2) In this Act, and in any will unless a contrary intention is shown in the will, a reference to a person in terms of a relationship to another person determined by blood or marriage shall be deemed to include a person who comes within the description notwithstanding that he or any

Relationship  
of persons  
born  
outside  
marriage

other person through whom the relationship is traced was born outside marriage.

Application  
of subs. (2)

(3) Subsection (2) applies in respect of wills made on or after the 31st day of March, 1978. 1977, c. 40, s. 1.

## PART I

### TESTATE SUCCESSION

#### GENERAL

Power to  
dispose of  
property  
by will

**2.** A person may by will devise, bequeath or dispose of all property (whether acquired before or after making his will) to which at the time of his death he is entitled either at law or in equity, including,

- (a) estates *pur autre vie*, whether there is or is not a special occupant and whether they are corporeal or incorporeal hereditaments;
- (b) contingent, executory or other future interests in property, whether the testator is or is not ascertained as the person or one of the persons in whom those interests may respectively become vested, and whether he is entitled to them under the instrument by which they were respectively created or under a disposition of them by deed or will; and
- (c) rights of entry, whether for conditions broken or otherwise. 1977, c. 40, s. 2.

Will to be  
in writing

**3.** A will is valid only when it is in writing. 1977, c. 40, s. 3.

Execution

**4.—(1)** Subject to sections 5 and 6, a will is not valid unless,

- (a) at its end it is signed by the testator or by some other person in his presence and by his direction;
- (b) the testator makes or acknowledges the signature in the presence of two or more attesting witnesses present at the same time; and

- (c) two or more of the attesting witnesses subscribe the will in the presence of the testator.

(2) Where witnesses are required by this section, no form of attestation is necessary. 1977, c. 40, s. 4. Idem

5.—(1) A person who is,

- (a) a member of the Canadian Forces placed on active service pursuant to the *National Defence Act* (Canada); Will of member of forces on active service  
R.S.C. 1970, c. N-4
- (b) a member of any other naval, land or air force while on active service; or
- (c) a mariner or seaman when at sea or in the course of a voyage,

may make a will by a writing signed by him or by some other person in his presence and by his direction without any further formality or any requirement of the presence of or attestation or signature by a witness.

(2) For the purposes of this section, a certificate purporting to be signed by or on behalf of an officer having custody of the records certifying that he has custody of the records of the force in which a person was serving at the time the will was made, setting out that the person was on active service at that time, is *prima facie* evidence of that fact. Certificate of active service

(3) For the purposes of this section, if a certificate under subsection (2) is not available, a member of a naval, land or air force is deemed to be on active service after he has taken steps under the orders of a superior officer preparatory to serving with or being attached to or seconded to a component of such a force that has been placed on active service. 1977, c. 40, s. 5. Where certificate not available

6. A testator may make a valid will wholly by his own handwriting and signature, without formality, and without the presence, attestation or signature of a witness. 1977, c. 40, s. 6. Holograph wills

7.—(1) In so far as the position of the signature is concerned, a will, whether holograph or not, is valid if the signature of the testator made either by him or the person signing for him is placed at, after, following, under or beside or opposite to the end of the will so that it is apparent on Position of signature



the face of the will that the testator intended to give effect by the signature to the writing signed as his will.

Idem

(2) A will is not rendered invalid by the circumstance that,

(a) the signature does not follow or is not immediately after the end of the will;

(b) a blank space intervenes between the concluding words of the will and the signature;

(c) the signature,

(i) is placed among the words of a testimonium clause or of a clause of attestation,

(ii) follows or is after or under a clause of attestation either with or without a blank space intervening, or

(iii) follows or is after, under or beside the name of a subscribing witness;

(d) the signature is on a side, page or other portion of the paper or papers containing the will on which no clause, paragraph or disposing part of the will is written above the signature; or

(e) there appears to be sufficient space on or at the bottom of the preceding side, page or other portion of the same paper on which the will is written to contain the signature.

Idem

(3) The generality of subsection (1) is not restricted by the enumeration of circumstances set out in subsection (2), but a signature in conformity with section 4, 5 or 6 or this section does not give effect to,

(a) a disposition or direction that is underneath the signature or that follows the signature; or

(b) a disposition or direction inserted after the signature was made. 1977, c. 40, s. 7.

**8.**—(1) A will made by a person who is under the age of <sup>Wills by minors</sup> eighteen years is not valid unless at the time of making the will the person,

- (a) is or has been married;
- (b) is contemplating marriage and the will states that it is made in contemplation of marriage to a named person except that such a will is not valid unless and until the marriage to the named person takes place;
- (c) is a member of a component of the Canadian Forces,
  - (i) that is referred to in the *National Defence Act* <sup>R.S.C. 1970, c. N-4</sup> (Canada) as a regular force, or
  - (ii) while placed on active service under the *National Defence Act* (Canada); or
- (d) is a mariner or seaman and at sea or in the course of a voyage.

(2) A certificate purporting to be signed by or on behalf of <sup>Certificate of active service</sup> an officer having custody of the records certifying that he has custody of the records of the force in which a person was serving at the time the will was made, setting out that the person was at that time a member of a regular force or was on active service within clause (1) (c), is *prima facie* evidence of that fact.

(3) A person who has made a will under subsection (1) may, <sup>Revocation</sup> while under the age of eighteen years, revoke the will. 1977, c. 40, s. 8.

**9.** No appointment made by will in exercise of any power <sup>Exercise of appointments by will</sup> is valid unless the appointment is executed in the manner hereinbefore required, and every will executed in the manner hereinbefore required is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. 1977, c. 40, s. 9.

**10.** A will made in accordance with this Part is valid <sup>Publication unnecessary</sup> without other publication. 1977, c. 40, s. 10.

Effect of  
incompetency  
of witness

**11.** Where a person who attested a will was at the time of its execution or afterward has become incompetent as a witness to prove its execution, the will is not on that account invalid. 1977, c. 40, s. 11.

Bequests  
to witness  
void

**12.—**(1) Where a will is attested by a person to whom or to whose then spouse a beneficial devise, bequest or other disposition or appointment of or affecting property, except charges and directions for payment of debts, is thereby given or made, the devise, bequest or other disposition or appointment is void so far only as it concerns,

- (a) the person so attesting;
- (b) the spouse; or
- (c) a person claiming under either of them,

but the person so attesting is a competent witness to prove the execution of the will or its validity or invalidity.

Where will  
signed for  
testator by  
another  
person

(2) Where a will is signed for the testator by another person in accordance with section 4, to whom or to whose then spouse a beneficial devise, bequest or other disposition or appointment of or affecting property, except charges and directions for payment of debts, is thereby given or made, the devise, bequest, or other disposition is void so far only as it concerns,

- (a) the person so signing;
- (b) the spouse; or
- (c) a person claiming under either of them,

but the will is not invalid for that reason.

Where no  
undue  
influence

(3) Notwithstanding anything in this section, where a surrogate court is satisfied that neither the person so attesting or signing for the testator nor the spouse exercised any improper or undue influence upon the testator, the devise, bequest or other disposition or appointment is not void. *New.*

Exception

(4) Where a will is attested by at least two persons who are not within subsection (1) or where no attestation is necessary, the devise, bequest or other disposition or appointment is not void under that subsection. 1977, c. 40, s. 12.

**13.** Where property is charged by a will with a debt and a creditor or the spouse of a creditor whose debt is so charged attests a will, the person so attesting, notwithstanding the charge, is a competent witness to prove the execution of the will or its validity or invalidity. 1977, c. 40, s. 13.

Creditor  
as witness

**14.** A person is not incompetent as a witness to prove the execution of a will or its validity or invalidity solely because he is an executor. 1977, c. 40, s. 14.

Executor  
as witness

**15.** A will or part of a will is revoked only by,

Revocation

(a) marriage, subject to section 16;

(b) another will made in accordance with the provisions of this Part;

(c) a writing,

(i) declaring an intention to revoke, and

(ii) made in accordance with the provisions of this Part governing making of a will; or

(d) burning, tearing or otherwise destroying it by the testator or by some person in his presence and by his direction with the intention of revoking it. 1977, c. 40, s. 15.

**16.** A will is revoked by the marriage of the testator except where,

Revocation  
by marriage

(a) there is a declaration in the will that it is made in contemplation of the marriage;

(b) the spouse of the testator elects to take under the will, by an instrument in writing signed by the spouse and filed within one year after the testator's death in the office of the Surrogate Clerk for Ontario; or

(c) the will is made in exercise of a power of appointment of property which would not in default of the appointment pass to the heir, executor or administrator of the testator or to the persons entitled to the estate of the testator if he died intestate. 1977, c. 40, s. 16.



Change in  
circum-  
stances

**17.**—(1) Subject to subsection (2), a will is not revoked by presumption of an intention to revoke it on the ground of a change in circumstances.

Exception on  
termination  
of marriage

(2) Except when a contrary intention appears by the will, where, after the testator makes a will, his marriage is terminated by a judgment absolute of divorce or is declared a nullity,

- (a) a devise or bequest of a beneficial interest in property to his former spouse;
- (b) an appointment of his former spouse as executor or trustee; and
- (c) the conferring of a general or special power of appointment on his former spouse,

are revoked and the will shall be construed as if the former spouse had predeceased the testator. 1977, c. 40, s. 17.

Alterations  
in will

**18.**—(1) Subject to subsection (2), unless an alteration that is made in a will after the will has been made is made in accordance with the provisions of this Part governing making of the will, the alteration has no effect except to invalidate words or the effect of the will that it renders no longer apparent.

How  
validly  
made

(2) An alteration that is made in a will after the will has been made is validly made when the signature of the testator and subscription of witnesses to the signature of the testator to the alteration, or, in the case of a will that was made under section 5 or 6, the signature of the testator, are or is made,

- (a) in the margin or in some other part of the will opposite or near to the alteration; or
- (b) at the end of or opposite to a memorandum referring to the alteration and written in some part of the will. 1977, c. 40, s. 18.

Revival

**19.**—(1) A will or part of a will that has been in any manner revoked is revived only,

- (a) by a will made in accordance with the provisions of this Part; or
- (b) by a codicil that has been made in accordance with the provisions of this Part,

that shows an intention to give effect to the will or part that was revoked, or,

- (c) by re-execution thereof with the required formalities, if any.

(2) Except when a contrary intention is shown, when a will which has been partly revoked and afterward wholly revoked is revived, the revival does not extend to the part that was revoked before the revocation of the whole. 1977, c. 40, s. 19.

As to part  
formerly  
revoked

**20.**—(1) A conveyance of or other act relating to property that is the subject of a devise, bequest or other disposition, made or done after the making of a will, does not prevent operation of the will with respect to any estate or interest in the property that the testator had power to dispose of by will at the time of his death.

Operation  
of will  
as to  
interest  
left in  
testator

(2) Except when a contrary intention appears by the will, where a testator at the time of his death,

Rights in  
place of  
property  
devised

- (a) has a right, chose in action or equitable estate or interest that was created by a contract respecting a conveyance of, or other act relating to, property that was the subject of a devise or bequest, made before or after the making of a will;
- (b) has a right to receive the proceeds of a policy of insurance covering loss of or damage to property that was the subject of a devise or bequest, whether the loss or damage occurred before or after the making of the will;
- (c) has a right to receive compensation for the expropriation of property that was the subject of a devise or bequest, whether the expropriation occurred before or after the making of the will; or
- (d) has a mortgage, charge or other security interest in property that was the subject of a devise or bequest, taken by the testator on the sale of such property, whether such mortgage, charge or other security interest was taken before or after the making of the will,

the devisee or donee of that property takes the right, chose in action, equitable estate or interest, right to insurance proceeds or compensation, or mortgage, charge or other security interest of the testator. 1977, c. 40, s. 20.

When revived  
will deemed  
made

**21.** When a will has been revived in the manner described in section 19, the will shall be deemed to have been made at the time at which it was so revived. 1977, c. 40, s. 21.

Will to speak  
from death

**22.** Except when a contrary intention appears by the will, a will speaks and takes effect as if it had been made immediately before the death of the testator with respect to,

- (a) the property of the testator; and
- (b) the right, chose in action, equitable estate or interest, right to insurance proceeds or compensation, or mortgage, charge or other security interest of the testator under subsection 20 (2). 1977, c. 40, s. 22.

Disposition  
of property  
in void  
devise

**23.** Except when a contrary intention appears by the will, property or an interest therein that is comprised or intended to be comprised in a devise or bequest that fails or becomes void by reason of,

- (a) the death of the devisee or donee in the lifetime of the testator; or
- (b) the devise or bequest being disclaimed or being contrary to law or otherwise incapable of taking effect,

is included in the residuary devise or bequest, if any, contained in the will. 1977, c. 40, s. 23.

Leasehold  
estates under  
devise of real  
property

**24.** Except when a contrary intention appears by the will, where a testator devises,

- (a) his real property;
- (b) his real property in a place mentioned in the will, or in the occupation of a person mentioned in the will;
- (c) real property described in a general manner; or
- (d) real property described in a manner that would include a leasehold estate if the testator had no freehold estate which could be described in the manner used,

the devise includes the leasehold estates of the testator or any of them to which the description extends, as well as freehold estates. 1977, c. 40, s. 24.

**25.**—(1) Except when a contrary intention appears by the will, a general devise of,

Disposition of real property over which testator has power of appointment under devise

(a) the real property of the testator;

(b) the real property of the testator,

(i) in a place mentioned in the will, or

(ii) in the occupation of a person mentioned in the will; or

(c) real property described in a general manner,

includes any real property, or any real property to which the description extends, which he has power to appoint in any manner he thinks proper and operates as an execution of the power.

(2) Except when a contrary intention appears by the will, a bequest of,

Disposition of personal property over which testator has power of appointment under bequest

(a) the personal property of the testator; or

(b) personal property described in a general manner,

includes any personal property, or any personal property to which the description extends, which he has power to appoint in any manner he thinks proper and operates as an execution of the power. 1977, c. 40, s. 25.

**26.** Except when a contrary intention appears by the will, where real property is devised to a person without words of limitation, the devise passes the fee simple or the whole of any other estate or interest that the testator had power to dispose of by will in the real property. 1977, c. 40, s. 26.

Real property passing under devise without words of limitation

**27.** Except when a contrary intention appears by the will, where property is devised or bequeathed to the "heir" or "heirs" of the testator or of another person, the words "heir" or "heirs" mean the person to whom the beneficial interest in the property would have gone under the law of Ontario if the testator or the other person died intestate. 1977, c. 40, s. 27.

Meaning of "heir" in devise of property

**28.**—(1) Subject to subsection (2), in a devise or bequest of property,

Import of words "die without issue", etc.

(a) the words,

(i) "die without issue",



(ii) “die without leaving issue”, or

(iii) “have no issue”; or

(b) other words importing either a want or failure of issue of a person in his lifetime or at the time of his death or an indefinite failure of his issue,

mean a want or failure of issue in the lifetime or at the time of death of that person, and do not mean an indefinite failure of his issue unless a contrary intention appears by the will.

Cases to which Part not to extend

(2) This Part does not extend to cases where the words defined in subsection (1) import,

(a) if no issue described in a preceding gift be born; or

(b) if there be no issue who live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to that issue. 1977, c. 40, s. 28.

Devise to trustee or executor

**29.** Except when there is devised to a trustee expressly or by implication an estate for a definite term of years absolute or determinable or an estate of freehold, a devise of real property to a trustee or executor passes the fee simple or the whole of any other estate or interest that the testator had power to dispose of by will in the real property. 1977, c. 40, s. 29.

When devise to trustee to pass whole estate beyond what is requisite for trust

**30.** Where real property is devised to a trustee without express limitation of the estate to be taken by him and the beneficial interest in the real property or in the surplus rents and profits,

(a) is not given to a person for life; or

(b) is given to a person for life but the purpose of the trust may continue beyond his life,

the devise vests in the trustee the fee simple or the whole of any other legal estate that the testator had power to dispose of by will in the real property and not an estate determinable when the purposes of the trust are satisfied. 1977, c. 40, s. 30.

Substitutional gifts

**31.** Except when a contrary intention appears by the will, where a devise or bequest is made to a child, grandchild, brother or sister of the testator who dies before the testator, either before or after the testator makes his will,

and leaves a spouse or issue surviving the testator, the devise or bequest does not lapse but takes effect as if it had been made directly to the persons among whom and in the shares in which the estate of that person would have been divisible,

- (a) if that person had died immediately after the death of the testator;
- (b) if that person had died intestate;
- (c) if that person had died without debts; and
- (d) if section 46 had not been passed. 1977, c. 40, s. 31.

**32.—**(1) Where a person dies possessed of, or entitled to, or under a general power of appointment by his will disposes of, an interest in freehold or leasehold property which, at the time of his death, is subject to a mortgage, and the deceased has not, by will, deed or other document, signified a contrary or other intention,

Primary liability of real property to satisfy mortgage

- (a) the interest is, as between the different persons claiming through the deceased, primarily liable for the payment or satisfaction of the mortgage debt; and
- (b) every part of the interest, according to its value, bears a proportionate part of the mortgage debt on the whole interest.

(2) A testator does not signify a contrary or other intention within subsection (1) by,

Consequence of general direction to pay debts out of personalty or residue

- (a) a general direction for the payment of debts or of all the debts of the testator out of his personal estate, his residuary real or personal estate or his residuary real estate; or
- (b) a charge of debts upon that estate,

unless he further signifies that intention by words expressly or by necessary implication referring to all or some part of the mortgage debt.

(3) Nothing in this section affects a right of a person entitled to the mortgage debt to obtain payment or satisfaction either out of the other assets of the deceased or otherwise.

Saving of mortgagee's rights

Interpre-  
tation

(4) In this section, "mortgage" includes an equitable mortgage, and any charge whatsoever, whether equitable, statutory or of other nature, including a lien or claim upon freehold or leasehold property for unpaid purchase money, and "mortgage debt" has a meaning similarly extended. 1977, c. 40, s. 32.

Undisposed  
of residue

**33.**—(1) Where a person dies having by will appointed a person executor, the executor is a trustee of any residue not expressly disposed of, for the person or persons, if any, who would be entitled to that residue in the event of intestacy in respect of it, unless it appears by the will that the person so appointed executor was intended to take the residue beneficially.

Where no  
person  
entitled  
to residue

(2) Nothing in this section prejudices any right in respect of any residue not expressly disposed of to which, if this Part had not been passed, an executor would have been entitled where there is not any person who would be entitled to the testator's estate under Part II in case of an intestacy. 1977, c. 40, s. 33.

#### CONFLICT OF LAWS

Interpre-  
tation

**34.** In sections 36 to 41,

- (a) an interest in land includes a leasehold estate as well as a freehold estate in land, and any other estate or interest in land whether the estate or interest is real property or is personal property;
- (b) an interest in movables includes an interest in a tangible or intangible thing other than land, and includes personal property other than an estate or interest in land;
- (c) "internal law" in relation to any place excludes the choice of law rules of that place. 1977, c. 40, s. 34.

Wills made  
in or out  
of Ontario

**35.** Sections 36 to 41 apply to a will made either in or out of Ontario. 1977, c. 40, s. 35.

Formalities,  
re interests  
in land

**36.**—(1) The manner and formalities of making a will, and its essential validity and effect, so far as it relates to an interest in land, are governed by the internal law of the place where the land is situated.

(2) Subject to other provisions of this Part, the manner<sup>re interests in movables</sup> and formalities of making a will, and its essential validity and effect, so far as it relates to an interest in movables, are governed by the internal law of the place where the testator was domiciled at the time of his death. 1977, c. 40, s. 36.

**37.**—(1) As regards the manner and formalities of making a will of an interest in movables or in land, a will is valid<sup>Formalities re interests in movables or in land</sup> and admissible to probate if at the time of its making it complied with the internal law of the place where,

- (a) the will was made;
- (b) the testator was then domiciled;
- (c) the testator then had his habitual residence; or
- (d) the testator then was a national if there was in that place one body of law governing the wills of nationals.

(2) As regards the manner and formalities of making a<sup>Idem</sup> will of an interest in movables or in land, the following are properly made,

- (a) a will made on board a vessel or aircraft of any description, if the making of the will conformed to the internal law in force in the place with which, having regard to its registration (if any) and other relevant circumstances, the vessel or aircraft may be taken to have been most closely connected;
- (b) a will so far as it revokes a will which under sections 34 to 42 would be treated as properly made or revokes a provision which under those sections would be treated as comprised in a properly made will, if the making of the later will conformed to any law by reference to which the revoked will or provision would be treated as properly made; and
- (c) a will so far as it exercises a power of appointment, if the making of the will conforms to the law governing the essential validity of the power. 1977, c. 40, s. 37.

**38.** A change of domicile of the testator occurring after<sup>Change of domicile</sup> a will is made does not render it invalid as regards the



manner and formalities of its making or alter its construction. 1977, c. 40, s. 38.

Construction  
of will

**39.** Nothing in sections 34 to 42 precludes resort to the law of the place where the testator was domiciled at the time of making a will in aid of its construction as regards an interest in land or an interest in movables. 1977, c. 40, s. 39.

Movables  
used in  
relation  
to land

**40.** Where the value of a thing that is movable consists mainly or entirely in its use in connection with a particular parcel of land by the owner or occupier of the land, succession to an interest in the thing under a will is governed by the law that governs succession to the interest in the land. 1977, c. 40, s. 40.

Where law  
outside  
Ontario to be  
applied to  
will

**41.—(1)** Where, whether under sections 34 to 42 or not, a law in force outside Ontario is to be applied in relation to a will, any requirement of that law that,

(a) special formalities are to be observed by testators answering a particular description; or

(b) witnesses to the making of a will are to possess certain qualifications,

shall be treated, notwithstanding any rule of that law to the contrary, as a formal requirement only.

Formal  
requirements  
of law

(2) In determining for the purposes of sections 34 to 40 whether or not the making of a will conforms to a particular law, regard shall be had to the formal requirements of that law at the time the will was made, but account shall be taken of an alteration of law affecting wills made at that time if the alteration enables the will to be treated as properly made. 1977, c. 40, s. 41.

#### INTERNATIONAL WILLS

Effective  
date

**42.—(1)** In this section, “convention” means the convention providing a uniform law on the form of international will, a copy of which is set out in the Schedule to this section.

Convention  
on form of  
international  
will

(2) On, from and after the 15th day of September, 1978, the convention is in force in Ontario and applies to wills as law of Ontario and the rules regarding an international will set out in the Annex to the convention are law in Ontario.

(3) All members of the Law Society of Upper Canada, <sup>Persons</sup> other than student members, are designated as persons <sup>authorized</sup> authorized to act in connection with international wills. <sup>under</sup> <sup>convention</sup>

(4) Nothing in this section detracts from or affects the <sup>Validity</sup> validity of a will that is valid under the laws in force in <sup>of wills</sup> Ontario other than this section. <sup>under other</sup> <sup>laws</sup>

## SCHEDULE

### **Convention Providing a Uniform Law on The Form of an International Will**

The States signatory to the present Convention,

DESIRING to provide to a greater extent for the respecting of last wills by establishing an additional form of will hereinafter to be called an "international will" which, if employed, would dispense to some extent with the search for the applicable law;

HAVE RESOLVED to conclude a Convention for this purpose and have agreed upon the following provisions:

#### Article I

1. Each Contracting Party undertakes that not later than six months after the date of entry into force of this Convention in respect of that Party it shall introduce into its law the rules regarding an international will set out in the Annex to this Convention.

2. Each Contracting Party may introduce the provisions of the Annex into its law either by reproducing the actual text, or by translating it into its official language or languages.

3. Each Contracting Party may introduce into its law such further provisions as are necessary to give the provisions of the Annex full effect in its territory.

4. Each Contracting Party shall submit to the Depositary Government the text of the rules introduced into its national law in order to implement the provisions of this Convention.

#### Article II

1. Each Contracting Party shall implement the provisions of the Annex in its law, within the period provided for in the preceding article, by designating the persons who, in its territory, shall be authorized to act in connection with international wills. It may also designate as a person authorized to act with regard to its nationals its diplomatic or consular agents abroad in so far as the local law does not prohibit it.

2. The Party shall notify such designation, as well as any modifications thereof, to the Depositary Government.

## Article III

The capacity of the authorized person to act in connection with an international will, if conferred in accordance with the law of a Contracting Party, shall be recognized in the territory of the other Contracting Parties.

## Article IV

The effectiveness of the certificate provided for in Article 10 of the Annex shall be recognized in the territories of all Contracting Parties.

## Article V

1. The conditions requisite to acting as a witness of an international will shall be governed by the law under which the authorized person was designated. The same rule shall apply as regards an interpreter who is called upon to act.

2. Nonetheless no one shall be disqualified to act as a witness of an international will solely because he is an alien.

## Article VI

1. The signature of the testator, of the authorized person, and of the witnesses to an international will, whether on the will or on the certificate, shall be exempt from any legalization or like formality.

2. Nonetheless, the competent authorities of any Contracting Party may, if necessary, satisfy themselves as to the authenticity of the signature of the authorized person.

## Article VII

The safekeeping of an international will shall be governed by the law under which the authorized person was designated.

## Article VIII

No reservation shall be admitted to this Convention or to its Annex.

## Article IX

1. The present Convention shall be open for signature at Washington from October 26, 1973, until December 31, 1974.

2. The Convention shall be subject to ratification.

3. Instruments of ratification shall be deposited with the Government of the United States of America, which shall be the Depositary Government.

## Article X

1. The Convention shall be open indefinitely for accession.

2. Instruments of accession shall be deposited with the Depositary Government.

## Article XI

1. The present Convention shall enter into force six months after the date of deposit of the fifth instrument of ratification or accession with the Depositary Government.

2. In the case of each State which ratifies this Convention or accedes to it after the fifth instrument of ratification or accession has been deposited, this Convention shall enter into force six months after the deposit of its own instrument of ratification or accession.

#### Article XII

1. Any Contracting Party may denounce this Convention by written notification to the Depositary Government.

2. Such denunciation shall take effect twelve months from the date on which the Depositary Government has received the notification, but such denunciation shall not affect the validity of any will made during the period that the Convention was in effect for the denouncing State.

#### Article XIII

1. Any State may, when it deposits its instrument of ratification or accession or at any time thereafter, declare, by a notice addressed to the Depositary Government, that this Convention shall apply to all or part of the territories for the international relations of which it is responsible.

2. Such declaration shall have effect six months after the date on which the Depositary Government shall have received notice thereof or, if at the end of such period the Convention has not yet come into force, from the date of its entry into force.

3. Each Contracting Party which has made a declaration in accordance with paragraph 1 of this Article may, in accordance with Article XII, denounce this Convention in relation to all or part of the territories concerned.

#### Article XIV

1. If a State has two or more territorial units in which different systems of law apply in relation to matters respecting the form of wills, it may at the time of signature, ratification, or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them, and may modify its declaration by submitting another declaration at any time.

2. These declarations shall be notified to the Depositary Government and shall state expressly the territorial units to which the Convention applies.

#### Article XV

If a Contracting Party has two or more territorial units in which different systems of law apply in relation to matters respecting the form of wills, any reference to the internal law of the place where the will is made or to the law under which the authorized person has been appointed to act in connection with international wills shall be construed in accordance with the constitutional system of the Party concerned.

#### Article XVI

1. The original of the present Convention, in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Government of the United States of America, which shall transmit certified copies thereof to each of the signatory and acceding States and to the International Institute for the Unification of Private Law.



2. The Depositary Government shall give notice to the signatory and acceding States, and to the International Institute for the Unification of Private Law, of:

- (a) any signature;
- (b) the deposit of any instrument of ratification or accession;
- (c) any date on which this Convention enters into force in accordance with Article XI;
- (d) any communication received in accordance with Article I, paragraph 4;
- (e) any notice received in accordance with Article II, paragraph 2;
- (f) any declaration received in accordance with Article XIII, paragraph 2, and the date on which such declaration takes effect;
- (g) any denunciation received in accordance with Article XII, paragraph 1, or Article XIII, paragraph 3, and the date on which the denunciation takes effect;
- (h) any declaration received in accordance with Article XIV, paragraph 2, and the date on which the declaration takes effect.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

DONE at Washington this twenty-sixth day of October, one thousand nine hundred and seventy-three.

## ANNEX

### Uniform Law on the Form of an International Will

#### Article 1

1. A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile or residence of the testator, if it is made in the form of an international will complying with the provisions set out in Articles 2 to 5 hereinafter.

2. The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

#### Article 2

This law shall not apply to the form of testamentary dispositions made by two or more persons in one instrument.

#### Article 3

- 1. The will shall be made in writing.
- 2. It need not be written by the testator himself.
- 3. It may be written in any language, by hand or by any other means.

## Article 4

1. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof.

2. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

## Article 5

1. In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.

2. When the testator is unable to sign, he shall indicate the reason therefor to the authorized person who shall make note of this on the will. Moreover, the testator may be authorized by the law under which the authorized person was designated to direct another person to sign on his behalf.

3. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

## Article 6

1. The signatures shall be placed at the end of the will.

2. If the will consists of several sheets, each sheet shall be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

## Article 7

1. The date of the will shall be the date of its signature by the authorized person.

2. This date shall be noted at the end of the will by the authorized person.

## Article 8

In the absence of any mandatory rule pertaining to the safekeeping of the will, the authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator the place where he intends to have his will kept shall be mentioned in the certificate provided for in Article 9.

## Article 9

The authorized person shall attach to the will a certificate in the form prescribed in Article 10 establishing that the obligations of this law have been complied with.

## Article 10

The certificate drawn up by the authorized person shall be in the following form or in a substantially similar form:

CERTIFICATE

(Convention of October 26, 1973)

1. I,.....(name, address and capacity),  
a person authorized to act in connection with international wills

2. Certify that on.....(date) at.....(place)

3. (testator)..... (name, address, date and  
place of birth)

in my presence and that of the witnesses

4. (a) ..... (name, address, date, and  
place of birth)

(b) ..... (name, address, date and  
place of birth)

has declared that the attached document is his will and that he  
knows the contents thereof.

5. I furthermore certify that:

6. (a) in my presence and in that of the witnesses

(1) the testator has signed the will or has acknowledged his  
signature previously affixed.

\*(2) following a declaration of the testator stating that he was  
unable to sign his will for the following reason.....

—I have mentioned this declaration on the will

\*—the signature has been affixed by.....(name, address)

7. (b) the witnesses and I have signed the will;

8. \*(c) each page of the will has been signed by.....  
and numbered;

9. (d) I have satisfied myself as to the identity of the testator and of  
the witnesses as designated above;

10. (e) the witnesses met the conditions requisite to act as such according  
to the law under which I am acting;

11. \*(f) the testator has requested me to include the following statement  
concerning the safekeeping of his will:

12. PLACE

13. DATE

14. SIGNATURE and, if nec-  
essary, SEAL

\*To be completed if appropriate.

## Article 11

The authorized person shall keep a copy of the certificate and deliver another to the testator.

## Article 12

In the absence of evidence to the contrary, the certificate of the authorized person shall be conclusive of the formal validity of the instrument as a will under this Law.

## Article 13

The absence or irregularity of a certificate shall not affect the formal validity of a will under this Law.

## Article 14

The international will shall be subject to the ordinary rules of revocation of wills.

## Article 15

In interpreting and applying the provisions of this law, regard shall be had to its international origin and to the need for uniformity in its interpretation.

1977, c. 40, s. 42 (1-4).

**43.** This Part applies to wills made before, on or after the 31st day of March, 1978 where the testator has not died before that date. 1977, c. 40, s. 44.

Application  
of Part

## PART II

## INTESTATE SUCCESSION

**44.** Where a person dies intestate in respect of property and is survived by a spouse and not survived by issue, the spouse is entitled to the property absolutely. 1977, c. 40, s. 45.

Intestacy  
where spouse  
and no issue

**45.—(1)** Subject to subsection (3), where a person dies intestate in respect of property having a net value of not more than \$75,000 and is survived by a spouse and issue, the spouse is entitled to the property absolutely.

Preferential  
share of  
spouse  
where issue

(2) Subject to subsection (3), where a person dies intestate in respect of property having a net value of more than \$75,000 and is survived by a spouse and issue, the spouse is entitled to \$75,000 absolutely.

Idem

(3) Notwithstanding subsection (1), where a person dies intestate as to some property and intestate as to other property and is survived by a spouse and issue, and,

Idem



(a) where the spouse is entitled under the will to nothing or to property having a net value of less than \$75,000, the spouse is entitled out of the intestate property to the amount by which \$75,000 exceeds the net value of the property, if any, to which the spouse is entitled under the will;

(b) where the spouse is entitled under the will to property having a net value of more than \$75,000, subsections (1) and (2) do not apply.

Interpre-  
tation

(4) In this section, "net value" means the value of the property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty. 1977, c. 40, s. 46.

Residue:  
spouse and  
one child

**46.**—(1) Where a person dies intestate in respect of property and leaves a spouse and one child, the spouse is entitled to one-half of the residue of the property after payment under section 45, if any.

Idem:  
spouse and  
two or more  
children

(2) Where a person dies intestate in respect of property and leaves a spouse and more than one child, the spouse is entitled to one-third of the residue of the property after payment under section 45, if any.

Idem:  
issue of  
predeceased  
children

(3) Where a child has died leaving issue living at the date of the intestate's death, the spouse's share shall be the same as if the child had been living at that date. 1977, c. 40, s. 47.

Issue

**47.**—(1) Subject to subsection (2), where a person dies intestate in respect of property and leaves issue surviving him, the property shall be distributed, subject to the rights of the spouse, if any, equally among his issue who are of the nearest degree in which there are issue surviving him.

Share of  
predeceasing  
issue

(2) Where any issue of the degree entitled under subsection (1) has predeceased the intestate, the share of such issue shall be distributed among his issue in the manner set out in subsection (1) and the share devolving upon any issue of that and subsequent degrees who predecease the intestate shall be similarly distributed.

Parents

(3) Where a person dies intestate in respect of property and leaves no spouse or issue, the property shall be distributed between the parents of the deceased equally or, where there is only one parent surviving the deceased, to that parent absolutely.

(4) Where a person dies intestate in respect of property<sup>Brothers and sisters</sup> and there is no surviving spouse, issue or parent, the property shall be distributed among the surviving brothers and sisters of the intestate equally, and if any brother or sister predeceases the intestate, the share of the deceased brother or sister shall be distributed among his or her children equally.

(5) Where a person dies intestate in respect of property<sup>Nephews and nieces</sup> and there is no surviving spouse, issue, parent, brother or sister, the property shall be distributed among the nephews and nieces of the intestate equally without representation.

(6) Where a person dies intestate in respect of property<sup>Next of kin</sup> and there is no surviving spouse, issue, parent, brother, sister, nephew or niece, the property shall be distributed among the next of kin of equal degree of consanguinity to the intestate equally without representation.

(7) Where a person dies intestate in respect of property<sup>Escheat</sup> and there is no surviving spouse, issue, parent, brother, sister, nephew, niece or next of kin, the property becomes the property of the Crown, and the *Escheats Act* applies.

R.S.O. 1980,  
c. 142

(8) For the purposes of subsection (6), degrees of kindred<sup>Degrees of kindred</sup> shall be computed by counting upward from the deceased to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

(9) For the purposes of this section, descendants and relatives of the deceased conceived before and born alive<sup>Descendants conceived but unborn</sup> after the death of the deceased shall inherit as if they had been born in the lifetime of the deceased and had survived him. 1977, c. 40, s. 48.

**48.** The common law right of a widower to curtesy is<sup>Abolition of curtesy</sup> abolished. 1977, c. 40, s. 49.

**49.** This Part applies to an intestacy upon a death<sup>Application</sup> occurring on or after the 31st day of March, 1978. 1977, c. 40, s. 53.

### PART III

#### DESIGNATION OF BENEFICIARIES OF INTEREST IN FUNDS OR PLANS

**50.** In this Part,

Interpre-  
tation

(a) "participant" means a person who is entitled to designate another person to receive a benefit payable under a plan on the participant's death;

(b) "plan" means,

(i) a pension, retirement, welfare or profit-sharing fund, trust, scheme, contract or arrangement or a fund, trust, scheme, contract or arrangement for other benefits for employees, former employees, directors, former directors, agents, or former agents of an employer or their dependants or beneficiaries, or

(ii) a fund, trust, scheme, contract, or arrangement for the payment of a periodic sum for life or for a fixed or variable term,

created before, on or after the 31st day of March, 1978, and includes a retirement savings plan and a home ownership savings plan as defined in the *Income Tax Act* (Canada). 1977, c. 40, s. 54.

R.S.C. 1952,  
c. 148

Designation  
of  
beneficiaries

**51.**—(1) A participant may designate a person to receive a benefit payable under a plan on the participant's death,

(a) by an instrument signed by him or signed on his behalf by another person in his presence and by his direction; or

(b) by will,

and may revoke the designation by either of those methods.

Idem

(2) A designation in a will is effective only if it relates expressly to a plan, either generally or specifically. 1977, c. 40, s. 55.

Revocation  
of  
designation

**52.**—(1) A revocation in a will is effective to revoke a designation made by instrument only if the revocation relates expressly to the designation, either generally or specifically.

Idem

(2) Notwithstanding section 15, a later designation revokes an earlier designation, to the extent of any inconsistency.

Idem

(3) Revocation of a will revokes a designation in the will.

Where  
will invalid

(4) A designation or revocation contained in an instrument purporting to be a will is not invalid by reason only of the fact that the instrument is invalid as a will.

(5) A designation in an instrument that purports to be <sup>Idem</sup> but is not a valid will is revoked by an event that would have the effect of revoking the instrument if it had been a valid will.

(6) Revocation of a designation does not revive an earlier <sup>Earlier  
designations  
not revived</sup> designation.

(7) Notwithstanding section 22, a designation or revocation <sup>Effective  
date</sup> in a will is effective from the time when the will is signed. 1977, c. 40, s. 56.

**53.** Where a participant in a plan has designated a person <sup>Payment  
and  
enforcement</sup> to receive a benefit under the plan on the death of the participant,

(a) the person administering the plan is discharged on paying the benefit to the person designated under the latest designation made in accordance with the terms of the plan, in the absence of actual notice of a subsequent designation or revocation made under section 51 but not in accordance with the terms of the plan; and

(b) the person designated may enforce payment of the benefit payable to him under the plan but the person administering the plan may set up any defence that he could have set up against the participant or his personal representative. 1977, c. 40, s. 57.

**54.—**(1) Where this Part is inconsistent with a plan, this <sup>Application  
of Part  
to plan</sup> Part applies, unless the inconsistency relates to a designation made or proposed to be made after the making of a benefit payment where the benefit payment would have been different if the designation had been made before the benefit payment, in which case the plan applies.

(2) This Part does not apply to a contract or to a designation <sup>Exception  
R.S.O.  
c. 218</sup> of a beneficiary to which the *Insurance Act* applies. 1977, c. 40, s. 58.

## PART IV

### SURVIVORSHIP

**55.—**(1) Where two or more persons die at the same <sup>Survivorship  
as to  
succession</sup> time or in circumstances rendering it uncertain which of them survived the other or others, the property of each person, or any property of which he is competent to dispose, shall be disposed of as if he had survived the other or others.



Simultaneous  
death of  
joint  
tenants

(2) Unless a contrary intention appears, where two or more persons hold legal or equitable title to property as joint tenants, or with respect to a joint account, with each other, and all of them die at the same time or in circumstances rendering it uncertain which of them survived the other or others, each person shall be deemed, for the purposes of subsection (1), to have held as tenant in common with the other or with each of the others in that property.

Provision in  
will for  
substitute  
representative

(3) Where a will contains a provision for a substitute personal representative operative if an executor designated in the will,

(a) dies before the testator;

(b) dies at the same time as the testator; or

(c) dies in circumstances rendering it uncertain which of them survived the other,

and the designated executor dies at the same time as the testator or in circumstances rendering it uncertain which of them survived the other, then, for the purpose of probate, the case for which the will provides shall be deemed to have occurred.

Proceeds of  
insurance  
R.S.O. 1980,  
c. 218

(4) The proceeds of a policy of insurance shall be paid in accordance with sections 192 and 272 of the *Insurance Act* and thereafter this Part applies to their disposition. 1977, c. 40, s. 61.

Application  
of Part

**56.** This part applies in respect of deaths occurring on or after the 31st day of March, 1978. 1977, c. 40, s. 63.

## PART V

### SUPPORT OF DEPENDANTS

Interpre-  
tation

**57.** In this Part,

(a) "child" means a child as defined in clause 1 (1) (a) and includes a grandchild and a person whom the deceased has demonstrated a settled intention to treat as a child of his family but does not include a child placed in a foster home for consideration by a person having lawful custody;

- (b) "common law spouse" means either of a man and a woman who, not being married to each other, had been cohabiting immediately before the death of one of them,
  - (i) continuously for a period of not less than five years, or
  - (ii) in a relationship of some permanence where there is a child born of whom they are the natural parents;
- (c) "court" means the surrogate court having jurisdiction to grant letters probate or letters of administration in the estate of the deceased;
- (d) "dependant" means,
  - (i) the spouse or common law spouse of the deceased,
  - (ii) a parent of the deceased,
  - (iii) a child of the deceased, or
  - (iv) a brother or sister of the deceased,to whom the deceased was providing support or was under a legal obligation to provide support immediately before his death;
- (e) "letters probate" and "letters of administration" include letters probate, letters of administration or other legal documents purporting to be of the same legal nature granted by a court in another jurisdiction and resealed in this province;
- (f) "parent" includes a grandparent and a person who has demonstrated a settled intention to treat the deceased as a child of his family, but does not include a person in whose home the deceased was placed as a foster child for consideration by a person having lawful custody;
- (g) "spouse" includes a person whose marriage to the deceased was terminated or declared a nullity. 1977, c. 40, s. 64.

Order for  
support

**58.**—(1) Where a deceased, whether testate or intestate, has not made adequate provision for the proper support of his dependants or any of them, the court, on application, may order that such provision as it considers adequate be made out of the estate of the deceased for the proper support of the dependants or any of them.

Applicants

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant, or by,

(a) the Ministry of Community and Social Services in the name of the Minister;

(b) a municipal corporation, including a metropolitan, district or regional municipality but not including an area municipality thereof; or

(c) a children's aid society,

where the Ministry, municipality or society is providing an allowance or benefit in respect of the support of the dependant.

Idem

(3) The adequacy of provision for support under subsection (1) shall be determined as of the date of the hearing of the application. 1977, c. 40, s. 65.

Suspensory  
order

**59.** On an application by or on behalf of the dependants or any of them, the court may make an order suspending in whole or in part the administration of the deceased's estate, for such time and to such extent as the court may decide. 1977, c. 40, s. 66.

Application

**60.**—(1) An application under this Part may be made to the court by originating notice of motion in accordance with the practice of the court.

Idem

(2) Where an application for an order under section 58 is made by or on behalf of any dependant,

(a) it may be dealt with by the court as; and

(b) in so far as the question of limitation is concerned, it shall be deemed to be,

an application on behalf of all persons who might apply. 1977, c. 40, s. 67.

Limitation  
period

**61.**—(1) Subject to subsection (2), no application for an order under section 58 may be made after six months from

the grant of letters probate of the will or of letters of administration.

(2) The court, if it considers it proper, may allow an application to be made at any time as to any portion of the estate remaining undistributed at the date of the application. 1977, c. 40, s. 68.

**62.**—(1) Upon the hearing of an application under this Part, the court, Exception  
Consideration  
on  
application

(a) shall inquire into and consider all the circumstances of the application, including,

- (i) the assets and means of the dependant,
- (ii) the capacity of the dependant to provide for his or her own support,
- (iii) the age and the physical and mental health of the dependant,
- (iv) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living,
- (v) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures,
- (vi) the proximity and duration of the dependant's relationship with the deceased,
- (vii) the contributions made by the dependant to the deceased's welfare, including indirect and non-financial contributions,
- (viii) the contributions made by the dependant to the acquisition, maintenance and improvement of the deceased's property, business or occupation,
- (ix) whether the dependant has a legal obligation to provide support for another person,
- (x) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education,
- (xi) where the dependant is a child of the age of sixteen years or more, his or her withdrawal from parental control;



- (xii) where the dependant is the spouse of the deceased, a course of conduct by the spouse during the lifetime of the deceased that is an obvious and gross repudiation of the relationship,
  - (xiii) the circumstances of the deceased at the time of death,
  - (xiv) any agreement between the deceased and the dependant,
  - (xv) any previous distribution or division of property made by the deceased in favour of the dependant by gift or agreement or under court order, and
  - (xvi) the claims that any other person may have as a dependant;
- (b) in addition to the evidence adduced by the parties appearing, may direct such other evidence to be given as the court considers necessary or proper; and
- (c) may accept such evidence as the court considers proper of the deceased's reasons, so far as ascertainable,
- (i) for making the dispositions made by his will, or
  - (ii) for not making adequate provision for a dependant,

including any statement in writing signed by the deceased.

Idem

(2) In estimating the weight to be given to a statement referred to in clause (1) (c), the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement. 1977, c. 40, s. 69.

Conditions  
and  
restrictions

**63.**—(1) In any order making provision for support of a dependant, the court may impose such conditions and restrictions as the court considers appropriate.

(2) Provision may be made out of income or capital or both and an order may provide for one or more of the following, as the court considers appropriate, <sup>Contents of order</sup>

- (a) an amount payable annually or otherwise whether for an indefinite or limited period or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;
- (c) any specified property to be transferred or assigned to or in trust for the benefit of the dependant, whether absolutely, for life or for a term of years;
- (d) the possession or use of any specified property by the dependant for life or such period as the court considers appropriate;
- (e) a lump sum payment to supplement or replace periodic payments;
- (f) the securing of payment under an order by a charge on property or otherwise;
- (g) the payment of a lump sum or of increased periodic payments to enable a dependant spouse or child to meet debts reasonably incurred for his or her own support prior to an application under this Part;
- (h) that all or any of the moneys payable under the order be paid to an appropriate person or agency for the benefit of the dependant;
- (i) the payment to an agency referred to in subsection 58 (2) of any amount in reimbursement for an allowance or benefit granted in respect of the support of the dependant, including an amount in reimbursement for an allowance paid or benefit provided before the date of the order.

(3) Where a transfer or assignment of property is ordered, <sup>Idem</sup> the court may,

- (a) give all necessary directions for the execution of the transfer or assignment by the executor or administrator or such other person as the court may direct; or
- (b) grant a vesting order.

(4) An order under this section may be made notwithstanding any agreement or waiver to the contrary. <sup>Agreement or waiver</sup>

Notice to  
parties  
before order

(5) The court shall not make any order under this section until it is satisfied upon oath that all persons who are or may be interested in or affected by the order have been served with notice of the application as provided by the rules of court, and every such person is entitled to be present and to be heard in person or by counsel at the hearing.

Exception

(6) Notwithstanding subsection (5), where, in the opinion of the court,

(a) every reasonable effort has been made to serve those entitled to notice; or

(b) after every reasonable effort has been made, it is not possible to identify one or more of the persons entitled to notice,

the court may dispense with the requirement of notice in respect of any person who has not been served. 1977, c. 40, s. 70.

Interim  
order

**64.** Where an application is made under this Part and the applicant is in need of and entitled to support but any or all of the matters referred to in section 62 or 63 have not been ascertained by the court, the court may make such interim order under section 63 as it considers appropriate. 1977, c. 40, s. 71.

Inquiries  
and further  
orders

**65.** Where an order has been made under this Part, the court at any subsequent date may,

(a) inquire whether the dependant benefitted by the order has become entitled to the benefit of any other provision for his support;

(b) inquire into the adequacy of the provision ordered; and

(c) discharge, vary or suspend the order, or make such other order as the court considers appropriate in the circumstances. 1977, c. 40, s. 72.

Further  
powers of  
court

**66.** The Court may at any time,

(a) fix a periodic payment or lump sum to be paid by a legatee, devisee or beneficiary under an intestacy to represent, or in commutation of, such proportion of the sum ordered to be paid as falls upon the portion of the estate in which he is interested;

- (b) relieve such portion of the estate from further liability; and
- (c) direct,
  - (i) the manner in which such periodic payment is to be secured, or
  - (ii) to whom such lump sum is to be paid and the manner in which it is to be dealt with for the benefit of the person to whom the commuted payment is payable. 1977, c. 40, s. 73.

**67.**—(1) Where an application is made and notice thereof is served on the personal representative of the deceased, he shall not, after service of the notice upon him, unless all persons entitled to apply consent or the court otherwise orders, proceed with the distribution of the estate until the court has disposed of the application. <sup>Distribution stayed</sup>

(2) Nothing in this Part prevents a personal representative from making reasonable advances for support to dependants who are beneficiaries. <sup>Exception</sup>

(3) Where a personal representative distributes any portion of the estate in violation of subsection (1), if any provision for support is ordered by the court to be made out of the estate, the personal representative is personally liable to pay the amount of the distribution to the extent that such provision or any part thereof ought, pursuant to the order or this Part, to be made out of the portion of the estate distributed. 1977, c. 40, s. 74. <sup>Liability of personal representative</sup>

**68.**—(1) Subject to subsection (2), the incidence of any provision for support ordered shall fall rateably upon that part of the deceased's estate to which the jurisdiction of the court extends. <sup>Incidence of provision ordered</sup>

(2) The court may order that the provision for support be made out of and charged against the whole or any portion of the estate in such proportion and in such manner as to the court seems proper. 1977, c. 40, s. 75. <sup>Idem</sup>

**69.** The court may give such further directions as it considers necessary for the purpose of giving effect to an order. 1977, c. 40, s. 76. <sup>Further directions</sup>



Certified  
copy of  
order filed  
with the  
clerk of  
the court

**70.**—(1) A certified copy of every order made under this Part shall be filed with the clerk of the court out of which the letters probate or letters of administration issued.

Idem

(2) A memorandum of the order shall be endorsed on or annexed to the copy, in the custody of the clerk, of the letters probate or letters of administration, as the case may be. 1977, c. 40, s. 77.

Property  
devised

**71.** Where a deceased,

- (a) has, in his lifetime, in good faith and for valuable consideration, entered into a contract to devise or bequeath any property; and
- (b) has by his will devised or bequeathed that property in accordance with the provisions of the contract,

the property is not liable to the provisions of an order made under this Part except to the extent that the value of the property in the opinion of the court exceeds the consideration therefor. 1977, c. 40, s. 78.

Value of  
certain  
transactions  
deemed part  
of estate

**72.**—(1) Subject to section 71, for the purpose of this Part, the capital value of the following transactions effected by a deceased before his death, whether benefitting his dependant or any other person, shall be included as testamentary dispositions as of the date of the death of the deceased and shall be deemed to be part of his net estate for purposes of ascertaining the value of his estate, and being available to be charged for payment by an order under clause 63 (2) (f),

- (a) gifts *mortis causa*;
- (b) money deposited, together with interest thereon, in an account in the name of the deceased in trust for another or others with any chartered bank, savings office, credit union or trust company, and remaining on deposit at the date of the death of the deceased;
- (c) money deposited, together with interest thereon, in an account in the name of the deceased and another person or persons and payable on death pursuant to the terms of the deposit or by operation of law to the survivor or survivors of those

persons with any chartered bank, savings office, credit union or trust company, and remaining on deposit at the date of the death of the deceased;

- (d) any disposition of property made by a deceased whereby property is held at the date of his death by the deceased and another as joint tenants;
- (e) any disposition of property made by the deceased in trust or otherwise, to the extent that the deceased at the date of his death retained, either alone or in conjunction with another person or persons by the express provisions of the disposing instrument, a power to revoke such disposition, or a power to consume, invoke or dispose of the principal thereof, but the provisions of this clause do not affect the right of any income beneficiary to the income accrued and undistributed at the date of the death of the deceased;
- (f) any amount payable under a policy of insurance effected on the life of the deceased and owned by him; and
- (g) any amount payable under a designation of beneficiary under Part III.

(2) The capital value of the transactions referred to in clauses (1) (b), (c) and (d) shall be deemed to be included in the net estate of the deceased to the extent that the funds on deposit were the property of the deceased immediately before the deposit or the consideration for the property held as joint tenants was furnished by the deceased. <sup>Idem</sup>

(3) Dependants claiming under this Part shall have the burden of establishing that the funds or property, or any portion thereof, belonged to the deceased. <sup>Burden of proof</sup>

(4) Where the other party to a transaction described in clause (1) (c) or (d) is a dependant, he shall have the burden of establishing the amount of his contribution, if any. <sup>Idem</sup>

(5) This section does not prohibit any corporation or person from paying or transferring any funds or property, or any portion thereof, to any person otherwise entitled <sup>Exception</sup>

thereto unless there has been personally served on the corporation or person a certified copy of a suspensory order made under section 59 enjoining such payment or transfer.

Suspensory  
order

(6) Personal service upon the corporation or person holding any such fund or property of a certified copy of a suspensory order shall be a defence to any action or proceeding brought against the corporation or person with respect to the fund or property during the period the order is in force.

Rights of  
creditor

(7) This section does not affect the rights of creditors of the deceased in any transaction with respect to which a creditor has rights. 1977, c. 40, s. 79.

Validity of  
mortgage,  
etc.

**73.** Where provision for the support of a dependant is ordered under this Part, a mortgage, charge or assignment of or with respect to such provision, made before the order of the court making such provision is entered, is invalid. 1977, c. 40, s. 80.

Persons in  
institutions  
under  
R.S.O. 1980,  
cc. 262, 118

**74.**—(1) Where a person by whom, or on whose behalf, an application may be made under this Part is a patient in a psychiatric facility under the *Mental Health Act* or a resident in a facility under the *Developmental Services Act* at the time of the deceased's death or at any time before the application under this Part is heard and disposed of, notice of the application for letters probate or letters of administration shall be served upon the Public Trustee on behalf of that person, and the time within which the Public Trustee may make an application under this Part runs from the date of the service of the notice.

Notice to  
Public  
Trustee

(2) Where a person interested in the estate in respect of which an application is made under this Part is a patient in a psychiatric facility under the *Mental Health Act* or a resident in a facility under the *Developmental Services Act*, notice of the application shall in every case be served upon the Public Trustee, who has the right to appear and be heard upon the application. 1977, c. 40, s. 81.

Removal  
into  
Supreme  
Court

**75.** At any time before the hearing of an application, a judge of the Supreme Court upon motion on behalf of the personal representative of the deceased, the applicant, or any other person interested, and upon being satisfied that the application is of such a nature and of such importance as to render it proper that it should be disposed of in the Supreme Court and the property of

the deceased exceeds \$20,000, may by order direct that the application be heard by a judge of the Supreme Court and thereupon the matter shall be transferred into the Supreme Court and the application shall be heard by a judge of the Supreme Court who has the like powers and shall proceed in the like manner as the court on an application under this Part. 1977, c. 40, s. 82.

**76.** The court may direct that the costs of the application <sup>Costs</sup> be paid out of the estate or otherwise as it thinks proper, and may fix the amount of the costs payable by any party, exclusive of necessary disbursements, at a lump sum having regard to the value of the estate and the amount of any support applied for or directed by its order. 1977, c. 40, s. 83.

**77.** An appeal lies to the Divisional Court from any order of <sup>Appeal</sup> the court made under this Part. 1977, c. 40, s. 84.

**78.**—(1) An order or direction made under this Part may <sup>Enforcement</sup> be enforced against the estate of the deceased in the same way and by the same means as any other judgment or order of the court against the estate may be enforced.

(2) Where a court orders security for the payment <sup>Realization of security</sup> under an order under this Part or charges a property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. 1977, c. 40, s. 85.

**79.** This Part binds the Crown. 1977, c. 40, s. 86.

<sup>Crown bound</sup>

**80.** This Part does not apply where the deceased died <sup>Application of Part</sup> before the 31st day of March, 1978, but an application may be made under section 65 regardless of the time of the deceased's death. 1977, c. 40, s. 88.





## CHAPTER 489

## Successor Rights (Crown Transfers) Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “bargaining agent” means an employee organization that has representation rights under the *Crown Employees Collective Bargaining Act* or a trade union or council of trade unions that is certified as a bargaining agent under the *Labour Relations Act*; R.S.O. 1980,  
cc. 108, 228
- (b) “Board” means the Ontario Labour Relations Board;
- (c) “collective agreement” means an agreement in writing between the Crown or an employer and an employee organization, trade union or council of trade unions covering terms and conditions of employment;
- (d) “Crown” means Her Majesty in right of Ontario;
- (e) “employer” means an employer other than the Crown;
- (f) “transfer” means a conveyance, disposition or sale;
- (g) “Tribunal” means the Ontario Public Service Labour Relations Tribunal;
- (h) “undertaking” means a business, enterprise, institution, program, project, work or a part of any of them.

(2) For the purposes of an application or other proceeding <sup>Idem</sup> before the Tribunal under this Act, “employee” has the same meaning as in the *Crown Employees Collective Bargaining Act*. 1977, c. 30, s. 1.

Where  
collective  
agreement  
binding on  
employer

2.—(1) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has a collective agreement with the Crown in respect of employees employed in the undertaking, the employer is bound by the collective agreement as if a party to the collective agreement until the Board declares otherwise.

Where  
application  
before  
Tribunal

(2) Where an undertaking is transferred from the Crown to an employer while an application is before the Tribunal for representation rights in respect of employees employed in the undertaking or for a declaration that an employee organization no longer represents employees employed in the undertaking, the application shall be transferred to the Board and the employer is the employer for the purposes of the application as if named as the employer in the application until the Board declares otherwise.

Rights of  
bargaining  
agent

(3) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has been granted representation rights under any Act and has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Board declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires. 1977, c. 30, s. 2.

Where  
collective  
agreement  
binding  
on Crown

3.—(1) Where an undertaking is transferred from an employer to the Crown and a bargaining agent has a collective agreement with the employer in respect of employees employed in the undertaking, the Crown is bound by the collective agreement as if a party to the collective agreement until the Tribunal declares otherwise.

Where  
application  
before Board

(2) Where an undertaking is transferred from an employer to the Crown while an application is before the Board for certification or termination of bargaining rights in respect of employees employed in the undertaking, the application shall be transferred to the Tribunal and the Crown is the employer for the purposes of the application as if named as the employer in the application until the Tribunal declares otherwise.

Rights of  
bargaining  
agent

(3) Where an undertaking is transferred from an employer to the Crown and a trade union or council of trade unions

has been certified by the Board as bargaining agent or has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Tribunal declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the body representing the Crown or to the Crown, as the case requires, written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires. 1977, c. 30, s. 3.

4.—(1) Where an undertaking was transferred from the Crown to an employer or from an employer to the Crown and an employee organization, trade union or council of trade unions was the bargaining agent in respect of employees employed in the undertaking immediately before the transfer and,

Powers of  
Board and  
Tribunal

- (a) a question arises as to what constitutes a unit of employees that is appropriate for collective bargaining purposes in respect of the undertaking; or
- (b) any person, employee organization, trade union or council of trade unions claims that by virtue of section 2 or 3, a conflict exists as to the bargaining rights of the employee organization, trade union or council of trade unions,

any person, employee organization, trade union or council of trade unions concerned may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, and the Board or the Tribunal, as the case requires,

- (c) may determine the composition of the unit of employees referred to in clause (a);
- (d) may amend, to such extent as the Tribunal or the Board considers necessary,
  - (i) any bargaining unit in any certificate issued to any trade union or council of trade unions,
  - (ii) any bargaining unit defined in any collective agreement,



- (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of the undertaking, or
- (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of the undertaking.

Idem

(2) Where an undertaking is transferred from the Crown to an employer or from an employer to the Crown, any person, employee organization, trade union or council of trade unions may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown,

- (a) within sixty days after the transfer of the undertaking; or
- (b) within sixty days after written notice is given by the employee organization, trade union or council of trade unions of desire to bargain to make or renew, with or without modifications, a collective agreement,

and the Board or the Tribunal, as the case requires, may terminate the bargaining rights of the employee organization, trade union or council of trade unions bound by a collective agreement in respect of employees employed in the undertaking or that has given notice, as the case may be, if in the opinion of the Board or the Tribunal the transferee of the undertaking has changed the character of the undertaking so that it is substantially different from the undertaking as it was carried on immediately before the transfer. 1977, c. 30, s. 4.

Where  
employees  
intermingled

5.—(1) Notwithstanding section 2, where an undertaking is transferred from the Crown to an employer who intermingles the employees employed in the undertaking immediately before the transfer with employees employed in one or more other undertakings carried on by the employer or an undertaking is transferred from an employer to the Crown and employees employed in the undertaking immediately before the transfer are intermingled with employees employed in other undertakings of the Crown and an employee organization, trade union or council of trade unions that is the bargaining agent in respect of employees

employed in any of the undertakings applies to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, the Board or the Tribunal, as the case requires,

- (a) may declare that the employer or the Crown, as the case may be, is no longer bound by the collective agreement referred to in section 2 or 3;
- (b) may determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) may declare which employee organization, trade union or council of trade unions shall be the bargaining agent in respect of each such bargaining unit; and
- (d) may amend, to such extent as the Board or the Tribunal considers necessary,
  - (i) any certificate issued to any trade union or council of trade unions,
  - (ii) any bargaining unit defined in any collective agreement,
  - (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of any of the undertakings, or
  - (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of any of the undertakings.

(2) Where an employee organization, trade union or council of trade unions is declared to be a bargaining agent under subsection (1) and it is not already bound by a collective agreement with the successor employer in respect of employees employed in the undertaking that was transferred, the employee organization, trade union or council of trade unions is entitled to give to the successor employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement. 1977, c. 30, s. 5.

- 6.—(1) Notwithstanding any other provision of this Act,
- (a) a trade union or council of trade unions shall not exercise representation rights or act as bargaining agent

Where  
bargaining  
agent  
ascertained

Compliance  
with  
requirements  
for  
bargaining  
agent

R.S.O. 1980,  
c. 108

agent in respect of employees employed in an undertaking transferred from an employer to the Crown unless the trade union or council of trade unions qualifies as an employee organization under the *Crown Employees Collective Bargaining Act*; and

- (b) an employee organization shall not exercise representation rights or act as bargaining agent in respect of employees employed in an undertaking transferred from the Crown to an employer unless the employee organization qualifies as a trade union or council of trade unions under the *Labour Relations Act*.

Application  
of  
R.S.O. 1980,  
cc. 228, 108

(2) Except as otherwise provided in this Act, where an undertaking is transferred from the Crown to an employer, the *Labour Relations Act* applies to a bargaining agent that has representation rights in respect of the employees employed in the undertaking and to the employees and where an undertaking is transferred from an employer to the Crown, the *Crown Employees Collective Bargaining Act* applies to a bargaining agent that is certified as a bargaining agent in respect of the employees employed in the undertaking and to the employees. 1977, c. 30, s. 6.

Application  
for  
declaration of  
qualification

7.—(1) An application may be made to the Tribunal or to the Board and,

- (a) the Tribunal may declare whether or not a trade union or council of trade unions qualifies as an employee organization under the *Crown Employees Collective Bargaining Act*; and
- (b) the Board may declare whether or not an employee organization qualifies as a trade union or council of trade unions under the *Labour Relations Act*.

Declaration  
by Tribunal  
or Board

(2) Where the Tribunal is not satisfied that the trade union or council of trade unions is so qualified or the Board is not satisfied that the employee organization is so qualified, the Tribunal or the Board, as the case may be, may specify the steps necessary to so qualify and when satisfied that the steps have been taken,

- (a) the Tribunal shall declare that the trade union, council of trade unions or the successor of either of them is so qualified; or

- (b) the Board shall declare that the employee organization or its successor is so qualified.

(3) A trade union, council of trade unions or successor of either of them that is declared by the Tribunal to be so qualified shall be deemed to have been qualified as an employee organization under the *Crown Employees Collective Bargaining Act* from and including the day of the transfer to the Crown of the undertaking to which the declaration relates.

Effect of  
declaration  
by Tribunal

R.S.O. 1980,  
c. 108

(4) An employee organization or its successor that is declared by the Board to be so qualified shall be deemed to have been qualified as a trade union or council of trade unions under the *Labour Relations Act* from and including the day of the transfer to the employer of the undertaking to which the declaration relates. 1977, c. 30, s. 7.

Effect of  
declaration  
by Board

R.S.O. 1980,  
c. 228

8. Before disposing of an application under this Act, the Board or the Tribunal, as the case may be, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. 1977, c. 30, s. 8.

Powers of  
Board or  
Tribunal  
before  
disposing of  
application

9. Where an application is made under this Act, the Crown or the employer, as the case may be, is not required, notwithstanding that a notice has been given by an employee organization, trade union or council of trade unions, to bargain with the employee organization, trade union or council of trade unions, as the case may be, concerning the employees to whom the application relates until the Board or the Tribunal, as the case requires, has disposed of the application and has declared which employee organization, trade union or council of trade unions, if any, has the right to bargain with the Crown or the employer, as the case may be, on behalf of the employees concerned in the application. 1977, c. 30, s. 9.

Where Crown  
or employer  
not  
required to  
bargain

10. For the purposes of the *Crown Employees Collective Bargaining Act* and the *Labour Relations Act*, notice given under this Act of desire to bargain to make or renew, with or without modifications, a collective agreement or a declaration by the Board or the Tribunal that an employee organization, trade union or council of trade unions is the bargaining agent in respect of the employees in a bargaining unit has the same effect as the granting of representation rights or certification as bargaining agent. 1977, c. 30, s. 10.

Effect of  
notice or  
declaration

11.—(1) Where, on an application before the Board under this Act, a question arises as to whether an under-

Power to  
determine  
whether  
transfer



taking has been transferred from the Crown to an employer, the Board shall determine the question and its decision is final and conclusive for the purposes of this Act.

*Idem*

(2) Where, on an application before the Tribunal under this Act, a question arises as to whether an undertaking has been transferred from an employer to the Crown, the Tribunal shall determine the question and its decision is final and conclusive for the purposes of this Act.

*Duty of respondent*

(3) Where, on an application under this Act, an employee organization, trade union or council of trade unions alleges that an undertaking was transferred from the Crown to an employer or from an employer to the Crown, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. 1977, c. 30, s. 11.

## CHAPTER 490

## Superannuation Adjustment Benefits Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “Adjustment Fund” means the Superannuation Adjustment Fund;
- (b) “employer” in relation to a pension plan means the employer within the meaning of such pension plan;
- (c) “Minister” means the Chairman of the Management Board of Cabinet or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;
- (d) “pension” means a pension, superannuation allowance or annuity payable pursuant to a pension plan to which this Act applies;
- (e) “recipient” means a person who,
  - (i) is in receipt of a pension, or
  - (ii) in the case of a deferred annuity, is entitled to an annuity,

under a pension plan to which this Act applies;

- (f) “regulations” means regulations made under this Act. 1975, c. 82, s. 1 (1); O. Reg. 131/76.

(2) For the purposes of this Act, the amount of pension payable to a recipient is the amount of pension payable to him or to which he is entitled pursuant to the pension plan in respect of which he is a recipient. 1975, c. 82, s. 1 (2).

Amount of  
pension  
payable to  
recipient

2. This Act applies only to pension plans designated by the regulations. 1975, c. 82, s. 2.

Application  
of Act

3. Subject to the other provisions of this Act, a superannuation adjustment benefit is payable,

Commence-  
ment of  
adjustment  
benefit

- (a) to every recipient who became entitled to a pension under a pension plan before the 1st day of

January of the year in which this Act is made applicable to the pension plan, commencing with the month next following the month in which this Act is made applicable to the pension plan; or

- (b) to every recipient who became entitled to a pension under a pension plan on or after the 1st day of January of the year in which this Act is made applicable to the pension plan, commencing with the first month in the year next following the year in which the recipient became entitled to a pension under the pension plan. 1975, c. 82, s. 3.

Adjustment  
ratio,  
determina-  
tion

1970-71-72,  
c. 15  
(Can.)

4.—(1) An adjustment ratio shall be determined in each year by calculating to 3 decimal points the ratio that the average of the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada) over a twelve month period ending with the 30th day of September bears to the corresponding average in relation to the immediately preceding twelve month period and by adjusting such ratio in accordance with the regulations as follows:

1. Where the ratio calculated for each year after the year in which a person becomes a recipient is in excess of 1.080, it shall first be reduced with respect to previous ratios calculated which were less than 1.000 and the remaining excess, if any, shall be applied to increase the ratio calculated in any subsequent year if the ratio calculated in the subsequent year is less than 1.080.
2. Where the ratio calculated for each year after the year in which a person becomes a recipient is less than 1.000, it shall first be increased with respect to previous ratios calculated which were greater than 1.080 and the remaining amount, if any, by which it is still less than 1.000 shall be applied to decrease the ratio in any subsequent year if the ratio calculated in the subsequent year is more than 1.000.
3. Where the ratio calculated is for the year in which a person becomes a recipient, the adjustment ratio for that year with respect to that recipient shall be obtained by first modifying the ratio calculated by decreasing it to a maximum of 1.080 or by increasing it to a minimum of 1.000, by deducting 1 from the modified ratio calculated and

multiplying the result by the ratio that the number of full months during which he was entitled to a pension in the year in which he became a recipient bears to 12 months and by adding 1 to the result.

(2) Where the determination of an adjustment ratio <sup>Maximum and minimum</sup> under subsection (1) results,

(a) in a ratio of more than 1.080, the adjustment ratio shall be 1.080; or

(b) in a ratio of less than 1.000, the adjustment ratio shall be 1.000.

(3) The adjustment ratio determined in any year shall <sup>Application</sup> apply to the year immediately following the year in which the determination is made. 1975, c. 82, s. 4, *revised*.

**5.**—(1) The superannuation adjustment benefit payable <sup>Calculation of adjustment benefit</sup> to a recipient for any month in any year is an amount equal to the amount obtained by multiplying,

(a) the amount of the pension payable to the recipient for that month;

by

(b) the accumulation (by multiplication) of the adjustment ratio applicable to the year in which that month occurs and the adjustment ratios applicable to the previous years in which superannuation adjustment benefits were payable to the recipient;

and subtracting therefrom

(c) the amount of the pension payable to the recipient for that month.

(2) For the purpose of subsection (1), the amount of <sup>Amount of monthly pension</sup> pension payable to a recipient for a month shall be equal to one-twelfth of the amount of pension payable to the recipient for a year. 1975, c. 82, s. 5.

**6.** Where payments under a deferred annuity will <sup>Deferred annuities</sup> commence on some date after the date this Act is made applicable to the pension plan under which such annuity is payable, the annuitant is entitled to an accumulation of adjustment ratios under this Act commencing with the month following the month in which this Act is made applicable to such pension plan or the first month of



the year next following the year in which he ceases to be employed, whichever is the later, and such accumulation of adjustment ratios shall be applied to the amount of the annuity commencing with the first payment of the annuity in accordance with the pension plan under which the annuity is payable. 1975, c. 82, s. 6.

Payment  
of  
adjustment  
benefits

7. Superannuation adjustment benefits payable to a recipient shall be paid at the same times, in the same manner and subject to the same terms and conditions as his pension is payable. 1975, c. 82, s. 7.

Contri-  
butions

8.—(1) Commencing with the month next following the month in which this Act is made applicable to a pension plan,

(a) every employee contributing under such plan shall contribute monthly to the Adjustment Fund, by reservation from salary or otherwise, an amount equal to 1 per cent of his salary and the amount so contributed shall be placed to his credit in the Adjustment Fund; and

(b) the employer shall contribute to the Adjustment Fund an amount equal to the amount contributed under clause (a).

Contri-  
butions  
re elective  
service

(2) An employee contributing under a pension plan who, after the date this Act is made applicable to the pension plan, elects to count as pensionable service any period of elective service to which he is entitled under such pension plan shall contribute to the Adjustment Fund an amount calculated on the same basis as the amounts he is required to pay to establish such elective service as pensionable service under such pension plan.

Where  
contributor  
qualified  
for long  
term income  
protection  
benefit

(3) Where the contributions of a contributor to a pension plan to which this Act applies are paid during any period by the employer by reason of the contributor being qualified, for a benefit under a long term income protection plan, the contributions required to be paid during that period under this Act by such contributor and his employer shall be paid by the employer or on his behalf.

Elective  
service

(4) In this section, "elective service" means any service that a contributor under a pension plan may elect to count as pensionable service under such pension plan. 1975, c. 82, s. 8.

Return of  
contributions

9. When a person who has contributed to the Adjustment Fund ceases to be employed and no pension is or will

become payable to or in respect of him, or when a recipient dies and no further pension benefits are payable to his beneficiary, contributions under this Act shall be paid out of the Adjustment Fund on the same basis and under the same terms and conditions as contributions may be paid out under the pension plan to which he was a contributor. 1975, c. 82, s. 9.

**10.**—(1) A fund, to be known as the Superannuation Adjustment Fund, consisting of moneys contributed under section 8 and interest credited thereto less moneys paid out of such Fund under this Act, shall be established. Super-annuation Adjustment Fund

(2) The Treasurer of Ontario is the custodian of the Adjustment Fund. Custodian

(3) An account to be known as the Superannuation Adjustment Fund Account shall be established in the accounts of Ontario and under such account separate accounts shall be maintained in relation to each pension plan to which this Act applies. Account

(4) The fiscal year of the Adjustment Fund shall be the same as the fiscal year of the Consolidated Revenue Fund. Fiscal year

(5) The Adjustment Fund shall be audited by the Provincial Auditor who shall make an annual report to the Treasurer of Ontario, and the Treasurer shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1975, c. 82, s. 10. Audit, report

**11.**—(1) All superannuation adjustment benefits and other moneys required to be paid under this Act to recipients who have contributed to the Adjustment Fund or to their dependants or to their estates or the estates of such dependants shall be paid out of the Adjustment Fund. Moneys to be paid out of Adjustment Fund

(2) All superannuation adjustment benefits and other moneys required to be paid under this Act to recipients who have not contributed to the Adjustment Fund or to their dependants or to their estates or the estates of such dependants shall be paid by the employer and not out of the Adjustment Fund. Moneys to be paid by employer

(3) Interest shall be credited at the close of each fiscal year to the Adjustment Fund out of the Consolidated Revenue Fund at such rate and in such manner as the Lieutenant Governor in Council may from time to time determine. 1975, c. 82, s. 11. Interest

No attachment, etc.

**12.** The interest of any person in the Adjustment Fund or in any adjustment benefit or other sum payable out of the Adjustment Fund or in any adjustment benefit or other sum payable under this Act by an employer is not subject to garnishment, attachment, seizure or other process of law and is not assignable. 1975, c. 82, s. 12.

Review of accounts and rate of contributions

**13.** A review committee shall be established in accordance with the regulations composed of representatives of the employer and of the contributors in relation to each pension plan to which this Act applies to review from time to time,

- (a) the rate of contribution to the Adjustment Fund by the employer and contributors; and
- (b) the account maintained under the Adjustment Fund Account in relation to such pension plan,

and any recommendation in relation thereto shall be made to the Minister. 1975, c. 82, s. 13 (1).

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) designating pension plans and groups of contributors and recipients thereunder to which this Act shall apply;
- (b) prescribing the composition of review committees and their terms of reference;
- (c) providing for the adjustment of ratios calculated under subsection 4 (1);
- (d) prescribing forms and procedures to be used under this Act. 1975, c. 82, s. 14.

Administration costs

**15.** The cost of administration of this Act is payable out of moneys appropriated therefor by the Legislature. 1975, c. 82, s. 15, *revised*.

CHAPTER 491

Surrogate Courts Act

1. In this Act,

Interpre-  
tation

- (a) "administration" includes all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes;
- (b) "common form business" means the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a surrogate court when the contest is terminated, and all business of a non-contentious nature to be taken in a surrogate court in matters of testacy and intestacy not being proceedings in a suit, and also the business of lodging caveats against the grant of probate of administration;
- (c) "county" includes a provisional judicial district;
- (d) "matters and causes testamentary" includes all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- (e) "will" includes a testament and all other testamentary instruments of which probate may be granted. R.S.O. 1970, c. 451, s. 1.

2. There shall be in and for every county a court of record styled "The Surrogate Court of the County (or Judicial District or District) of..... (*naming the county or district*)". R.S.O. 1970, c. 451, s. 2.

Surrogate  
court for  
each county

3. Every surrogate court shall be provided with a seal approved by the Lieutenant Governor. R.S.O. 1970, c. 451, s. 3.

Seal

4. The sittings of the surrogate court shall be held in the county court house or such other place in the county as the senior judge may direct and shall be presided over by a judge thereof. R.S.O. 1970, c. 451, s. 4; 1979, c. 66, s. 18 (1).

Sittings



Power to  
enforce  
judgments  
and orders

**5.** Every surrogate court has the like powers as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and the same have the like force and effect as writs and processes issued out of the Supreme Court. R.S.O. 1970, c. 451, s. 5.

Contempt,  
etc.

**6.** Every surrogate court may punish by fine or imprisonment, or by both, for every wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1970, c. 451, s. 6.

Rules of  
evidence

practice and  
procedure

**7.** The rules of evidence observed in and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of the Supreme Court apply to the surrogate courts, and, with respect to all matters within the jurisdiction of the surrogate courts, such courts and the judges and officers thereof respectively have and may exercise all the powers of the Supreme Court and of the judges and officers thereof. R.S.O. 1970, c. 451, s. 7.

Appointment  
of judges

**8.—(1)** The Lieutenant Governor in Council shall appoint as many judges of the surrogate courts as the Lieutenant Governor in Council considers necessary and may designate one of the judges of a surrogate court as the senior judge of the court.

Term of  
office

**(2)** Every judge of a surrogate court shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to the satisfaction of the Lieutenant Governor in Council. 1979, c. 66, s. 18 (2).

Same judge  
in more  
than one  
county

**(3)** The same person may be appointed to and hold the office of judge of the surrogate court of more than one county. R.S.O. 1970, c. 451, s. 8 (2); 1979, c. 66, s. 18 (3).

Salary where  
judge not  
county  
judge

**(4)** Where a judge of a surrogate court is not also a judge of the county court, the Lieutenant Governor in Council may fix his salary which shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 451, s. 8 (3); 1979, c. 66, s. 18 (4).

**9.**—(1) Where there is a vacancy in the office of a judge of a surrogate court or a judge of a surrogate court is absent or ill, any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Attorney General, act as a judge of the surrogate court. <sup>Acting judge</sup>

(2) Where a judge of a surrogate court requests in writing any judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over the surrogate court of the judge making the request, such judge or barrister may act as judge of the surrogate court. 1979, c. 66, s. 18 (5). <sup>Acting judge, on request</sup>

(3) Where a judge of a county court who is also judge of the surrogate court vacates his county court judgeship, unless the Lieutenant Governor in Council otherwise directs, he shall thereby vacate his judgeship of the surrogate court. <sup>When judgeship of surrogate court vacated</sup> R.S.O. 1970, c. 451, s. 9 (3).

**10.** Every judge of the surrogate court shall take and subscribe the following oath before the chief judge or a judge designated by him: <sup>Oath of office</sup>

I, ..... do swear  
that I will, truly and faithfully, according to my skill and knowl-  
edge, execute the several duties, powers and trusts of judge of  
The Surrogate Court of the .....  
of..... So help me God.

1971, c. 59, s. 1.

**11.**—(1) A judge appointed for the surrogate court of one or more counties may exercise the powers and perform the duties of a surrogate court judge in any other county in the same manner and to the same effect as a judge appointed for that county. <sup>Judge acting outside county</sup> 1972, c. 8, s. 1.

(2) Every judge appointed under this Act who is a judge of a county or district court has the powers of a surrogate court judge appointed under this Act in any other county or district while he is authorized to act as a county or district court judge therein. <sup>Idem</sup> R.S.O. 1970, c. 451, s. 11 (2); 1979, c. 66, s. 18 (6).

**12.**—(1) The Lieutenant Governor in Council may appoint a registrar for each surrogate court and may ap- <sup>Appointment of registrar and staff</sup>

point such persons to the staff of the registrar's office as are considered necessary, and may fix their position specifications, salary ranges and terms and conditions of employment. R.S.O. 1970, c. 451, s. 12 (1).

Temporary  
appointments

(2) The Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of a registrar's office for a term not exceeding one year. R.S.O. 1970, c. 451, s. 12 (2); 1972, c. 1, s. 9 (7).

Surrogate  
Clerk for  
Ontario

(3) The registrar for The Surrogate Court of the Judicial District of York is by virtue of his office the Surrogate Clerk for Ontario. 1977, c. 43, s. 1.

Oath of  
registrar

**13.** Every registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

I, ....., do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the ....., and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God.

R.S.O. 1970, c. 451, s. 13.

Security

R.S.O. 1980,  
c. 415

**14.** Every registrar, before entering upon the duties of his office, shall furnish such security as is required by the Lieutenant Governor in Council for the due performance of the duties of his office, and the provisions of the *Public Officers Act* relating to the giving of security apply to such security. R.S.O. 1970, c. 451, s. 14.

Registrar's  
office

**15.** The registrar shall keep his office in the court house of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the judge may direct. R.S.O. 1970, c. 451, s. 15.

Holiday  
defined

**16.—(1)** In this section, "holiday" means,

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under the *Public Service Act*. 1977, c. 43, s. 2. R.S.O. 1980, c. 418

(2) Except on holidays when they shall be closed, every surrogate court office shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. 1971, c. 59, s. 2, *part*. Office hours

**17.** The office of the registrar is a depository for all wills of living persons given to him for safe keeping, and the registrar shall receive and keep the same upon payment of such fees and under such regulations as are prescribed by the surrogate court rules. R.S.O. 1970, c. 451, s. 17. Depository for the wills of living persons

**18.** The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in his court, subject to such regulations as are prescribed by the surrogate court rules. R.S.O. 1970, c. 451, s. 18. Preservation of testamentary instruments, etc.

**19.** Where books, documents, papers or other material have been preserved in the office of the registrar for so long that it appears they need not be preserved any longer, an order authorizing the Inspector of Legal Offices to cause their destruction or other disposition may be made by the Chief Judge of the County and District Courts. 1971, c. 59, s. 3. Destruction of documents

**20.** On the third day of every month, or oftener if required by the surrogate court rules, every registrar shall transmit by mail to the Surrogate Clerk for Ontario a list, in such form and containing such particulars as are prescribed by such rules, of the grants of probate and administration made by his court up to the last day of the preceding month, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1970, c. 451, s. 19; 1971, c. 59, s. 4. Transmission to Surrogate Clerk for Ontario of list of grants, etc.

**21.** A registrar shall not for fee or reward draw or advise upon any will or upon any paper or document connected with the duties of his office for which a fee is not expressly allowed to him by the tariff. R.S.O. 1970, c. 451, s. 20. Registrar not to take fee for drawing or advising on certain documents

**22.** Subject to the *Judicature Act*, all jurisdiction and authority in relation to matters and causes testamentary, Testamentary jurisdiction to be exercised by the surrogate courts  
R.S.O. 1980, c. 223



and in relation to the granting or revoking of probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, are vested in the several surrogate courts. R.S.O. 1970, c. 451, s. 21.

No action  
for legacy or  
distribution  
of residue

**23.** An action for a legacy or for the distribution of a residue shall not be entertained by a surrogate court. R.S.O. 1970, c. 451, s. 22.

Adminis-  
tration not to  
be granted to  
non-resident

**24.** Letters of administration shall not be granted to a person not residing in Ontario, but this does not apply to resealing letters under section 77. R.S.O. 1970, c. 451, s. 23.

Probate or  
letters  
ancillary to  
persons not  
residing in  
Common-  
wealth

**25.** Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the Commonwealth unless the person has given the like security as is required from an administrator in case of intestacy or in the opinion of the judge such security should under special circumstances be dispensed with or be reduced in amount. R.S.O. 1970, c. 451, s. 24.

Grant, of  
probate or  
adminis-  
tration,  
jurisdiction

**26.**—(1) The granting of probate or letters of administration belongs to the surrogate court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

Where  
decedent had  
no abode  
in Ontario

(2) If the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the grant may be made by the surrogate court of any county in which the testator or intestate had property at the time of his death.

When any  
court may  
make grant

(3) In other cases the granting of probate or letters of administration belongs to any surrogate court. R.S.O. 1970, c. 451, s. 25.

Where  
surrogate  
judge is  
applicant

**27.** Where the person or one of the persons entitled to apply for probate of a will or for letters of administration is judge of the court having jurisdiction in the matter and he does not renounce, application by him for such probate or letters and any subsequent application in the matter of the estate by him or by any other person may be made to the judge of the surrogate court for an adjoining county who has the same authority as to such application and generally in all matters connected with the estate as if he were the judge of the surrogate court having jurisdiction, and he is entitled to

the same fees as he would have been entitled to if the application had been made or proceedings had been taken in the court of which he is judge. R.S.O. 1970, c. 451, s. 26.

**28.** Letters probate and letters of administration granted by a surrogate court not having jurisdiction to grant the same have, until revoked, the same force and effect as if they had been granted by a surrogate court having jurisdiction. R.S.O. 1970, c. 451, s. 27. Effect of probate granted without jurisdiction

**29.** Letters probate and letters of administration have effect in all parts of Ontario. R.S.O. 1970, c. 451, s. 28. Effect of probate and administration

**30.**—(1) The court may cause any question of fact arising in any proceeding therein to be tried by a jury before the judge of the court, and such trial shall take place at some ensuing sittings of the county court for the county, and be conducted in the same manner as other trials by jury in such court, and the parties are entitled to their right of challenge, and for all purposes of or incidental to the trial of questions of fact by a jury the court and the judge thereof have the same jurisdiction, power and authority in all respects as belong to the county courts and the judges thereof for like purposes. Trial of questions of fact by a jury

(2) The question directed to be tried by a jury shall be reduced to writing in such form as the court may direct. R.S.O. 1970, c. 451, s. 29. The issue

**31.**—(1) Whether a suit or other proceeding is or is not pending in the court with respect to a probate or administration, every surrogate court may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary that is shown to be in the possession or under the control of such person. Production of instruments purporting to be testamentary

(2) If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar or such person as the court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person is subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in Examination of persons touching such instruments

such paper or writing, as he would have been subject to if he had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding are in the discretion of the court. R.S.O. 1970, c. 451, s. 30.

Removal of  
proceeding  
to S.C.O.

**32.**—(1) Any contentious cause or proceeding may be removed into the Supreme Court by order of a judge of such court if it is of such a nature and of such importance as to render it proper that it should be disposed of by the Supreme Court, and the property of the deceased exceeds \$20,000 in value.

Terms

(2) The judge may impose such terms as to payment of or security for costs or otherwise as he considers just.

Transmission  
of judgment  
to surrogate  
court

(3) The judgment of the Supreme Court in any cause or proceeding so removed shall be certified to the registrar of the surrogate court from which the cause or proceeding was removed. R.S.O. 1970, c. 451, s. 31.

Right of  
appeal

**33.**—(1) Any party or person taking part in the proceedings may appeal to the Divisional Court from any order, determination or judgment of a surrogate court or a judge thereof in any matter or cause if the value of the property affected by such order, determination or judgment exceeds \$200.

Rights of  
persons  
interested  
to appeal

(2) Where the claimant or personal representative having a right of appeal does not appeal from the order, judgment or determination, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Divisional Court, appeal therefrom.

Rights of  
persons  
interested  
to be heard  
at appeal

(3) The Official Guardian or any person beneficially interested in the estate, may, by leave of a judge of the Divisional Court, appear and be heard upon any such appeal.

Manner  
and time  
of appeal

(4) Every appeal under this section shall be made by notice of motion served upon all parties interested within thirty days after the date of the judgment, determination or order appealed from, and when the circumstances of any case in the opinion of a judge of the Divisional Court so warrant, he may permit service to be effected by registered mail.

Extension  
of time  
for appeal

(5) The time limited for appeal by this section may be extended by a judge of the Divisional Court either before or after the expiry of the time limit.

Rules of  
court

(6) The rules of court apply to such appeals. R.S.O. 1970, c. 451, s. 32.

**34.** In the case of any order, determination or judgment made or given by a surrogate court or a judge thereof in respect of which an appeal is not otherwise provided under this Act, an appeal lies to the Divisional Court in accordance with the rules of court. R.S.O. 1970, c. 451, s. 33, *revised*.

Appeals from interlocutory orders, etc.

**35.**—(1) On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted.

Where deceased resided in Ontario

(2) Where, upon the application for probate of the will of a person who at the time of the execution of the will was a member of the forces or was a mariner or seaman at sea or in the course of a voyage, it appears that the witnesses are dead or are incompetent or that the whereabouts of the witnesses, or either of them, is unknown, the judge of the surrogate court to whom the application is made may accept such evidence as he considers satisfactory as to the validity and proper execution of such will, notwithstanding anything in this Act or in the rules or regulations of the surrogate court to the contrary.

Death or absence of witnesses of will of member of forces or mariner

(3) In subsection (2), “member of the forces” means a member of a component of the Canadian Forces,

Interpretation

(a) that is referred to in the *National Defence Act* (Canada) as a regular force; or

R.S.C. 1970, c. N-4

(b) while placed on active service under the *National Defence Act* (Canada). 1977, c. 43, s. 3.

**36.** On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property in the county to the

Where deceased had no fixed place of abode in Ontario



surrogate court of which the application is made, or leaving no property in Ontario, as the case may be, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1970, c. 451, s. 35.

Conclusive-  
ness of  
affidavits

**37.** The affidavit as to the place of abode and property of the deceased under sections 35 and 36, for the purpose of giving a particular court jurisdiction is conclusive for the purpose of authorizing the exercise of such jurisdiction, and no grant of probate or administration is liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode in the particular county, or had not property therein at the time of his death, but in case it is made to appear to the judge of the surrogate court before whom the application is pending that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he considers just. R.S.O. 1970, c. 451, s. 36.

Proof, etc.,  
requisite for  
obtaining  
grant to  
party not  
next-of-kin  
to intestate

**38.** Where application is made for letters of administration by a person not entitled to the same as next-of-kin of the deceased, an order shall be made requiring the next-of-kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next-of-kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the surrogate court rules. R.S.O. 1970, c. 451, s. 37.

Temporary  
adminis-  
tration in  
certain cases

**39.**—(1) If the next-of-kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next-of-kin to Ontario.

Security to  
be given

(2) The administrator so appointed shall give such security as the court may direct, and has all the rights and powers of a general administrator, and is subject to the immediate control of the court. R.S.O. 1970, c. 451, s. 38.

Quebec  
notarial  
wills

**40.** A notarial will made in the Province of Quebec may be admitted to probate without the production of the original will

upon filing a notarial copy thereof together with the other proper proofs to lead grant. R.S.O. 1970, c. 451, s. 39.

**41.** Notice of every application for the grant of probate or administration shall be transmitted by the registrar by registered mail to the Surrogate Clerk for Ontario by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as are prescribed by the surrogate court rules. R.S.O. 1970, c. 451, s. 40; 1971, c. 59, s. 5.

Notice to  
Surrogate  
Clerk for  
Ontario of  
applications

**42.** Unless upon special order of the court, no probate or administration shall be granted until the registrar has received a certificate under the hand of the Surrogate Clerk for Ontario that no other application appears to have been made in respect of the property of the deceased, which certificate the Surrogate Clerk for Ontario shall forward as soon as may be to the registrar. R.S.O. 1970, c. 451, s. 41; 1971, c. 59, s. 6.

Certificate  
from  
Surrogate  
Clerk for  
Ontario

**43.** All notices in respect of applications shall be filed and kept by the Surrogate Clerk for Ontario. R.S.O. 1970, c. 451, s. 42; 1971, c. 59, s. 7.

Surrogate  
Clerk for  
Ontario to  
file notices

**44.** The Surrogate Clerk for Ontario shall, with reference to every such notice, examine all notices of such applications received from the several registrars so far as appears to be necessary to ascertain whether or not application for probate or administration in respect of the property of the deceased has been made in more than one surrogate court, and he shall communicate with the registrars as occasion requires in relation to such applications. R.S.O. 1970, c. 451, s. 43; 1971, c. 59, s. 8.

Duty of  
Surrogate  
Clerk for  
Ontario with  
reference to  
notices

**45.—(1)** Where it appears by the certificate of the Surrogate Clerk for Ontario that application for probate or administration has been made to two or more surrogate courts, the judges of such courts respectively shall stay proceedings therein, leaving the parties to apply to a judge of the Supreme Court for such direction in the matter as he considers necessary. R.S.O. 1970, c. 451, s. 44 (1); 1971, c. 59, s. 9 (1).

Where  
application  
made to  
more than  
one surro-  
gate court

**(2)** On application made to such judge, he shall inquire into the matter in a summary way and adjudge and determine what surrogate court has jurisdiction.

Judgment  
as to what  
court has  
jurisdiction

Order as  
to costs

(3) The judge may order costs to be paid by any of the applicants, and the order shall be enforced by the Supreme Court. R.S.O. 1970, c. 451, s. 44 (2, 3).

Judge's  
decision  
final

(4) The determination of the judge is final and conclusive, and the Surrogate Clerk for Ontario shall without delay transmit a certified copy of the judge's order to the registrars of the surrogate courts wherein such applications were made. R.S.O. 1970, c. 451, s. 44 (4); 1971, c. 59, s. 9 (2).

Caveats

46. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk for Ontario or with the registrar of a surrogate court. R.S.O. 1970, c. 451, s. 45; 1971, c. 59, s. 10.

Notice of  
caveats

47. Upon a caveat being lodged, the registrar shall without delay send a copy thereof to the Surrogate Clerk for Ontario to be entered among the caveats lodged with him, and, upon notice of an application being received from the registrar of a surrogate court under section 41, the Surrogate Clerk for Ontario shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 42. R.S.O. 1970, c. 451, s. 46; 1971, c. 59, s. 11.

Citation of  
persons  
interested

48. Where proceedings are taken for proving a will in solemn form or for revoking the probate of a will on the ground of the invalidity thereof or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have an interest in the property affected by the will may, subject to this Act and to the surrogate court rules, be summoned to see the proceedings and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1970, c. 451, s. 47.

Citation to  
prove or  
renounce

49. The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1970, c. 451, s. 48.

Conse-  
quences of  
failure to  
appear

50. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship wholly ceases, and the representation to the testator, and the administration of his property, without any further renunciation, goes, devolves, and is committed in like manner as if such person had not been appointed executor. R.S.O. 1970, c. 451, s. 49.

**51.**—(1) Where a minor is sole executor, administration with the will annexed shall be granted to the guardian of the minor or to such other person as the court thinks fit, until the minor has attained the full age of eighteen years, at which time, and not before, probate of the will may be granted to him. R.S.O. 1970, c. 451, s. 50 (1); 1971, c. 98, s. 4, Sched., par. 34.

Where a  
minor sole  
executor

(2) The person to whom such administration is granted has the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next-of-kin. R.S.O. 1970, c. 451, s. 50 (2).

Power of  
adminis-  
trator in  
such case

**52.** An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1970, c. 451, s. 51.

Official  
copies

**53.** Pending an action touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the surrogate court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person, and the administrator so appointed has all the rights and powers of a general administrator, other than the right of distributing the residue of the property, and every such administrator is subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court considers proper. R.S.O. 1970, c. 451, s. 52.

Adminis-  
tration  
pending  
action

**54.**—(1) Subject to subsection (3), where a person dies intestate or the executor named in the will refuses to prove the will, administration of the property of the deceased may be committed by the surrogate court having jurisdiction to the husband, or to the wife, or to the next-of-kin, or to the wife and next-of-kin, as in the discretion of the court seems best, and, where more persons than one claim the administration as next-of-kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next-of-kin where there are more persons than one of equal kindred, the administration may be committed to such one or more of such next-of-kin as the court thinks fit.

To what  
persons  
adminis-  
tration shall  
be granted

(2) Subject to subsection (3), where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another

Appointment  
at request  
of parties  
interested



person be appointed to be the administrator of the property of the deceased, or of any part of it, the right that such persons possessed to have administration granted to them in respect of it belongs to such person.

General power as to appointment of administrator under special circumstances

(3) Where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it is not obligatory upon the court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the court may appoint such person as it thinks fit upon his giving such security as it may direct, and every such administration may be limited as it thinks fit.

Appointment of trust company

(4) A trust company may be appointed as administrator under subsection (2) or (3), either alone or jointly with another person. R.S.O. 1970, c. 451, s. 53.

After grant of administration no person to act as executor

**55.** After a grant of administration, no person, other than the administrator or executor, has power to sue or prosecute any action or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration until such administration has been recalled or revoked. R.S.O. 1970, c. 451, s. 54.

Administration limited to personal estate

**56.** A person entitled to letters of administration to the property of a deceased person is entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1970, c. 451, s. 55.

Evaluation

**57.—(1)** The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true statement of the total value, verified by the oath of the applicant, of all the property that belonged to the deceased at the time of his death.

Evaluation of subsequently discovered property

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such statement of total value is discovered by the executor or administrator, he shall, within six months thereafter, deliver to the regis-

trar a true statement of the total value, duly verified by oath, of such newly discovered property.

(3) Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in the statement of value only the property and value thereof intended to be affected by such application or grant. 1977, c. 43, s. 4. Evaluation of limited grant

**58.**—(1) Where after a grant has issued out of the surrogate court the value of the estate has been increased for succession duty purposes, the executor or administrator shall forthwith pay to the registrar of the court from which the grant issued the additional fees that would have been payable at the time of the issue if the value of the estate had been placed at the amount to which it has been so increased, and the registrar shall account for such additional fees in the same manner as if they had been paid at the time of the issue of the grant. Fees on increased valuation

(2) Where after a grant has issued out of the surrogate court the value of the estate has been decreased for succession duty purposes, the executor or administrator may apply to the registrar of the court from which the grant issued for a refund of the amount of the difference between the amount of the fees paid and the amount of the fees that would have been payable at the time of the issue if the value of the estate had been placed at the amount to which it was so decreased, and the registrar shall make such refund and amend his records accordingly. R.S.O. 1970, c. 451, s. 57. Fees on decreased valuation

**59.** Where a person renounces probate of the will of which he is appointed an executor, his rights in respect of the executorship wholly cease, and the representation to the testator and the administration of his property, without any further renunciation, goes, devolves and is committed in like manner as if such person had not been appointed executor. R.S.O. 1970, c. 451, s. 58. Consequences upon executor renouncing

**60.** Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the court by which the grant is made, to enure for the benefit of the judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the surrogate court rules, and in cases not provided for by the rules, the bond shall be in such form as the judge by special order may direct. R.S.O. 1970, c. 451, s. 59. Bonds

When  
security not  
required

**61.**—(1) It is not necessary for the Government of Ontario or any ministry thereof or any Provincial commission or board created under any Act of the Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under any Act. R.S.O. 1970, c. 451, s. 60 (1); 1972, c. 1, s. 2.

Idem

(2) A bond shall not be required where the administration on an intestacy is granted to the surviving spouse of the deceased and where,

R.S.O. 1980,  
c. 488

(a) the net value of the estate as computed for the purposes of section 45 of the *Succession Law Reform Act* does not exceed \$75,000; and

(b) there is filed with the application for administration an affidavit setting forth the debts of the estate. 1973, c. 19, s. 1; 1977, c. 43, s. 5 (1).

Amount of  
security

**62.**—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, and the judge may direct that more than one bond be given so as to limit the liability of any surety to such amount as the judge considers proper.

Power to  
reduce  
amount

(2) The judge may at any time under special circumstances reduce the amount of or dispense with the bond. R.S.O. 1970, c. 451, s. 61.

Power of  
courts as to  
assignment  
of bonds

**63.** The judge on application made in a summary way and on being satisfied that the condition of the bond has been broken may order the registrar to assign the bond to some person to be named in the order, and such person is thereupon entitled to sue on the bond in his own name as if it had been originally given to him, and shall recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1970, c. 451, s. 62.

Accounts to  
be rendered

**64.** The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1970, c. 451, s. 63.

**65.**—(1) Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if it is not furnished as directed by the judge, he may revoke the grant of administration or letters of guardianship.

New or additional security in certain cases

(2) The order may be made by the judge on his own initiative or on the application of any person interested.

Order by judge or on application

**66.**—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation or where an administrator or guardian desires to substitute other security for that furnished by him, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as he considers proper, and he may direct that, on the substituted security being furnished, and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

Substitution of security

(2) The application may be made *ex parte* or on such notice as the judge may direct. R.S.O. 1970, c. 451, s. 65.

How application made

**67.** Where an executor or administrator has passed his final account and has paid into court or distributed the whole of the property of the deceased that has come to his hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1970, c. 451, s. 66.

Cancellation of security

**68.** Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be delivered up to be cancelled, but where a minor was or is entitled to a part of the estate under the distribution, the order shall not be made until after such notice as the judge may direct has been given to the Official Guardian, and where any person who is a patient in a psychiatric facility under the *Mental Health Act* was or is entitled to a part of the estate under the distribution, the order shall not be made until after like notice has been given to the Public Trustee. R.S.O. 1970, c. 451, s. 67.

Cancellation of bond of administrator in distribution of estate

R.S.O. 1980, c. 262

**69.**—(1) Where a claim or demand is made against the estate of a deceased person or where the personal representative has notice of such claim or demand, he may serve

Contestation of claims against estate



the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part, and also referring to this section.

Application  
for order  
allowing  
claim

(2) Within thirty days after the receipt of such notice of contestation or within three months thereafter if the judge of the surrogate court on application so allows, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he considers just, and if the claimant does not make such application, he shall be deemed to have abandoned his claim and it is forever barred.

Claim within  
jurisdiction  
of small  
claims court

(3) Where the claim is within the jurisdiction of the small claims court, an application for the extension of time referred to in subsection (2) and the application for the order shall be made to the judge of a small claims court in which an action for the recovery of the claim might be brought, and the application for the order shall be heard by the judge at the sittings of such court, but where the claimant and the personal representative consent, the applications may be made to the judge of the surrogate court.

Notice in  
such cases

(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the surrogate court, shall also be given to the Official Guardian if minors are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct.

Right of  
persons  
interested to  
be heard

(5) Where the application is made to the judge of the surrogate court, in addition to the persons to whom notice has been given, any other person who is interested in the estate has the right to be heard and to take part in the proceedings.

Consent to  
jurisdiction  
of surrogate  
court in  
certain cases

(6) Where the claim, or the part of it that is contested, amounts to \$800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection (5), direct the creditor to bring an action for the recovery or the establishment of his claim, on such terms and conditions as the judge considers just but, where the claimant and the personal representative consent to have the trial before the judge of the surrogate court, the trial shall take place and be disposed of before the surrogate court judge under this section.

(7) Where the claim is within the jurisdiction of the small claims court, the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the surrogate court and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the surrogate judge having regard to the amount involved and the importance of the contest.

Fees and costs when claim within small claims court jurisdiction

(8) This section applies, notwithstanding that the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought.

Claims not presently payable

(9) The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario.

Application for order allowing commission

(10) The judge may make an order for the taking of the evidence of any material and necessary witness residing in Ontario who is sick, aged or infirm or is about to leave Ontario *de bene esse* and provide to whom notice of the examination is to be given.

Judge may make an order appointing a person to take testimony

(11) A subpoena may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section.

Right to issue subpoenas

(12) The rules of the Supreme Court so far as they are applicable apply to every application for such commission or order for examination, the issue, execution, enforcement and return thereof and the judge has power to award costs of all such proceedings according to the tariff in force from time to time for like services in county courts.

Rules of Supreme Court apply

(13) Where a claim is established under this section, no proceedings shall be taken to enforce payment of the claim without the permission of the judge.

Permission for enforcement of judgment

(14) Where permission to enforce payment of a claim is given, the order shall be filed in the county court and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1970, c. 451, s. 68.

Enforcement of judgment

**70.**—(1) Where any claim or demand not within the meaning of subsection 69 (1) is made against the estate of a deceased person or where the personal representative has notice or knowledge of the claim or demand, he may serve the claimant with the notice prescribed in the said subsection.

Notice of contestation of unliquidated claims

Application  
by claimant  
for order for  
directions

(2) Within the time limits mentioned in subsection 69 (2), the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order for directions as to the disposition of the claim or demand, and if the claimant does not make the application he shall be deemed to have abandoned his claim, and it is forever barred.

Notice in  
such cases

(3) Not less than seven days notice of the application shall be given to the personal representative and to the Official Guardian if infants are concerned and to such, if any, of the persons beneficially interested in the estate as the judge may direct.

Powers  
of judge

(4) The judge shall make such order upon the application for directions as he considers just and, in particular but without limiting the generality of the foregoing, he may,

(a) direct the claimant to bring an action for the recovery or establishment of his claim on such terms and conditions as he considers just; and

(b) where the claim or demand is not presently recoverable, prescribe the time after which the claimant shall proceed pursuant to the directions.

Idem

(5) By consent of the claimant and personal representative, the judge may direct that the trial take place and be disposed of before the surrogate court judge.

Application  
of parts  
of s. 69

(6) When an order is made under subsection (4), subsections 69 (9), (10), (11) and (12) apply.

Right of  
persons  
interested  
to appeal

(7) If the personal representative does not appeal from an order made under subsection (2) or (4), the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Divisional Court, appeal therefrom.

Right of  
persons  
interested  
to be heard  
on appeal

(8) Where the claimant or the personal representative appeals from an order made under subsection (2) or (4), the Official Guardian and any person beneficially interested in the estate may, by leave of the court that hears the appeal, appear and be heard. R.S.O. 1970, c. 451, s. 69.

Summary  
determina-  
tion of  
disputes as to  
ownership

**71.** Where the personal representative of a person claims the ownership of any personal property not exceeding in value \$800 and his claim is disputed by any other person, the dispute may be determined in a summary manner and section 69 applies with necessary modifications. R.S.O. 1970, c. 451, s. 70.



**72.**—(1) The *Limitations Act* does not affect the claim of a person against the estate of a deceased person where notice of the claim giving full particulars of the claim and verified by affidavit, is filed with the executor or administrator of the estate at any time prior to the date upon which the claim would be barred by the *Limitations Act*, but where no executor or administrator has been appointed, the notice may be filed in the office of the registrar of the surrogate court of the county where the deceased person resided at the date of his death. R.S.O. 1980, c. 240 not to apply in certain cases

(2) Where the claim of a person against any other person would be barred by the *Limitations Act* at any time within three months after the death of the person having the claim, the claim shall for all purposes be deemed not to be barred until three months after the date of such death. Special provision R.S.O. 1970, c. 451, s. 71.

**73.** An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. Accounting by executor trustee R.S.O. 1970, c. 451, s. 72

**74.**—(1) Where an executor, administrator, trustee under a will of which he is an executor, or a guardian, has filed in the proper surrogate court an account of his dealings with the estate, and the judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the Supreme Court, such approval, except so far as mistake or fraud is shown, is binding upon any person who was notified of the proceedings taken before the surrogate judge or who was present or represented thereat and upon every one claiming under any such person. Effect of approval of accounts by surrogate judge

(2) A guardian appointed by the surrogate court may pass the accounts of his dealings with the estate before the judge of the court by which letters of guardianship were issued. Passing accounts by guardians

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and the administration and disbursement thereof in as full and ample a manner as may be done in the Master's office under an administration order, and, for such purpose, may take evidence and decide all disputed matters arising in such accounting, subject to appeal. Powers of judge on passing accounts

(4) The judge, on passing any accounts under this section, has power to inquire into any complaint or claim by any person interested in the taking of the accounts of misconduct, Further powers



neglect, or default on the part of the executor, administrator or trustee occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise as he considers proper and just to the estate or trust fund, but any order made under this subsection is subject to appeal.

May order trial and give directions as to pleadings, etc.

(5) The judge may order the trial of an issue of any complaint or claim under subsection (4), and in such case he shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with the issue.

Removal to Supreme Court

(6) Any person interested in the taking of such accounts, or any executor, administrator or trustee against whom any complaint or claim has been made on the passing of such accounts as provided in subsection (4) may apply to a judge of the Supreme Court for an order removing the proceedings to the Supreme Court, if in his opinion the claim is of such a nature or of such importance as to render it proper that it should be disposed of by the Supreme Court, and for the purpose of making such application, the applicant is entitled to an adjournment of the proceedings in the surrogate court.

Notice to persons interested

(7) The persons interested in the taking of such accounts or the making of such inquiries are, if resident in Ontario, entitled to not less than seven days notice thereof, and, if resident out of Ontario, are entitled to such notice as the judge may direct.

Notice to persons under disability  
R.S.O. 1980,  
c. 262

(8) Where a person entitled to notice under subsection (7) is a minor or is of unsound mind and is not a patient in a psychiatric facility under the *Mental Health Act*, his notice shall be served upon the Official Guardian not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts.

Idem, in mental hospital

(9) Where a person entitled to notice under subsection (7) is a patient in a psychiatric facility under the *Mental Health Act*, his notice shall be served upon the Public Trustee not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts.

Notice of taking accounts to be served on Public Trustee

(10) Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are

hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by him to or for any such purpose, notice of taking the accounts shall be served upon the Public Trustee.

(11) Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next-of-kin, and it appears to be doubtful whether the intestate left any next-of-kin him surviving or that there are no known next-of-kin resident in Ontario, notice of taking the accounts shall be served upon the Public Trustee.

Where person to whom administration granted is not next-of-kin

(12) Where accounts submitted to the judge of a surrogate court are of an intricate or complicated character and in his opinion require expert investigation, he may appoint an accountant or other skilled person to investigate and to assist him in auditing the accounts. R.S.O. 1970, c. 451, s. 73.

Appointment of expert on examination of accounts

**75.**—(1) An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor is an executor or administrator otherwise compellable to account before any judge.

At whose instance executors or administrators compellable to account

(2) This section applies notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1970, c. 451, s. 74.

Application

**76.**—(1) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed in value \$1,000, the registrar shall prepare the necessary papers leading to the grant sought, and the bond, if any, and he shall administer the necessary oaths, and the total amount to be charged to the applicant for all the proceedings and services shall be \$2. R.S.O. 1970, c. 451, s. 75 (1), *revised*.

Fees where estate does not exceed \$1,000

(2) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed \$1,000, the fees payable to the judge and the registrar shall be one-half of the fees payable according to the tariff in the case of an estate not exceeding in value \$1,000.

Where property does not exceed \$1,000

(3) If the judge has reason to believe that the property exceeds in value \$1,000, he shall refuse to proceed with the application until he is satisfied as to the real value.

Judge may satisfy himself as to real value

Fees  
where estate  
consists of  
insurance  
moneys and  
wearing  
apparel

(4) Subject to subsection (1), where the whole property of the deceased or of the ward consists of insurance money or of insurance money and wearing apparel, although general letters probate, general letters of administration or letters of guardianship are sought, the fees payable thereon shall be as follows:

1. Where the insurance money does not exceed \$1,000..... \$4
2. Where the insurance money exceeds \$1,000 but does not exceed \$2,000..... \$6
3. Where the insurance money exceeds \$2,000 but does not exceed \$3,000..... \$8

Apportion-  
ment of  
fees

(5) The Lieutenant Governor in Council may apportion the fees payable between the judge and the registrar.

Fees to be  
exclusive of  
fees payable  
to Crown

(6) The fees prescribed by this section are exclusive of any other fees payable to the Crown, and do not include the fees payable in respect of contentious business. R.S.O. 1970, c. 451, s. 75 (2-6).

Manner of  
giving effect  
to grants of  
probate, etc.,  
of English or  
Colonial  
Courts

**77.**—(1) Where probate or letters of administration or other legal document purporting to be of the same nature granted by a court of competent jurisdiction in the United Kingdom or in a province or territory of Canada or in any British possession is produced to and a copy thereof deposited with the registrar of any surrogate court and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration or other document shall, under the direction of the judge, be sealed with the seal of the surrogate court, and thereupon is of the like force and effect in Ontario as if the same had been originally granted by such surrogate court, and is, so far as regards Ontario, subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1970, c. 451, s. 76 (1); 1977, c. 43, s. 6 (1).

Letters of  
verification  
in Quebec

(2) Letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section. R.S.O. 1970, c. 451, s. 76 (2).

(3) The letters of administration shall not be sealed with the seal of the surrogate court until a certificate has been filed under the hand of the registrar of the court that issued the letters that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the surrogate court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1970, c. 451, s. 76 (4). <sup>Security required</sup>

**78.**—(1) Where the judge before whom any matter or proceeding under this Act is tried dies before disposing of it or having heard it has not disposed of it within six months thereafter, any party may, upon notice to all other parties, apply to the Chief Judge of the County and District Courts for an order that the matter or proceeding be reheard by such judge of a surrogate court as he may designate. R.S.O. 1970, c. 451, s. 77 (1); 1979, c. 66, s. 18 (7). <sup>Rehearing</sup>

(2) An order made under subsection (1) shall name the place where the matter or proceeding is to be reheard and, in making such order, the chief judge may give such other directions as he considers fit. <sup>Idem</sup>

(3) No proceedings in the matter or proceeding shall thereafter be taken without the order of the chief judge after notice. <sup>Further proceedings</sup>

(4) Upon such rehearing, the evidence, exhibits and papers used at the trial shall be read and, after argument by counsel, the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the county court clerk in accordance with his findings. <sup>Judgment on rehearing</sup>

(5) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid. <sup>Costs of rehearing</sup>

(6) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at the trial. R.S.O. 1970, c. 451, s. 77 (2-6). <sup>Appeal</sup>

**79.**—(1) The fees payable upon the value of the estate of the deceased shall be calculated upon the value of the whole estate, including the real estate as well as the personal estate. <sup>Fees to be on value of whole estate</sup>

(2) In calculating the value of the real property, there shall be deducted the actual value of any encumbrance thereon. R.S.O. 1970, c. 451, s. 78. <sup>Deduction</sup>



Rules  
Committee  
may make  
rules

**80.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may,

- (a) make rules for regulating the practice and procedure in the surrogate courts;
- (b) make rules and regulations regulating and fixing fees and expenses payable to witnesses, in respect of proceedings in such courts;
- (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
- (d) prescribe forms for use in such courts. R.S.O. 1970, c. 451, s. 79; 1979, c. 49, s. 4.

## CHAPTER 492

### Surveyors Act

#### INTERPRETATION

##### 1. In this Act,

Interpre-  
tation

- (a) "articles" means an agreement respecting training and service between a member of the Association and a student;
- (b) "Association" means The Association of Ontario Land Surveyors;
- (c) "board" means the board of examiners of the Association;
- (d) "by-law" means a by-law of the Association;
- (e) "council" means the council of the Association;
- (f) "professional land surveying" means the advising on, the reporting on, the supervising of or the conducting of surveys to establish, locate, define or describe the lines, boundaries or corners of parcels of land or land covered with water;
- (g) "regulation" means a regulation of the Association;
- (h) "secretary" means the secretary of the Association;
- (i) "student" means a student in professional land surveying. R.S.O. 1970, c. 452, s. 1.

#### ASSOCIATION

**2.—**(1) The Association of Ontario Land Surveyors constituted a body corporate by section 3 of *The Ontario Land Surveyors Act*, being chapter 34 of the Statutes of Ontario, 1892, is continued as a body corporate. Association  
continued

(2) The members of the Association are the persons whose names are on the roll of the Association. Membership  
R.S.O. 1970, c. 452, s. 2.

## Objects

**3.** The objects of the Association are,

- (a) to regulate the practice of professional land surveying and to govern the profession in accordance with this Act, the regulations and the by-laws;
- (b) to establish and maintain standards of knowledge and skill among its members; and
- (c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected. R.S.O. 1970, c. 452, s. 3.

## Head office

**4.** The head office of the Association shall be in The Municipality of Metropolitan Toronto or at such other place in Ontario as is designated by the regulations. R.S.O. 1970, c. 452, s. 4.

## Property

**5.** The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1970, c. 452, s. 5.

## COUNCIL

## Council

**6.—(1)** There shall be a council of the Association, which shall consist of,

- (a) the Minister of Natural Resources or his appointee;
- (b) the Surveyor General; and
- (c) a president, a vice-president and six elected councillors. R.S.O. 1970, c. 452, s. 6 (1); 1972, c. 4, s. 12.

## Qualifications of elected members of council

(2) No person shall be elected as a member of the council unless he is a resident of Ontario and a paid-up member of the Association.

## Qualifications of electors

(3) No person shall vote in an election of a member of the council unless he is a member of the Association.

## Term of office

(4) The president and vice-president shall be elected annually by secret ballot and two of the six elected councillors shall be elected annually for a term of three years by secret ballot.

(5) In addition to the members of the council mentioned in subsection (1), the Lieutenant Governor in Council may appoint as councillors for a term of three years, <sup>Lay councillor; legal councillor</sup>

(a) a resident of Ontario who is not a member of the Association; and

(b) a resident of Ontario who is a barrister and solicitor of at least ten years standing at the bar of Ontario.

(6) Where the president, vice-president or a councillor ceases to be a member of the Association, is absent from three consecutive meetings of the council, resigns as a member of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy by the appointment of a person qualified to be elected as a member of the council, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. <sup>Vacancies</sup>

(7) No person shall be appointed or elected as a member of the council unless he is a Canadian citizen or other British subject and a person shall cease to be a member of the council if he ceases to be so qualified. R.S.O. 1970, c. 452, s. 6 (2-7). <sup>Canadian citizen</sup>

**7.**—(1) The council shall appoint a secretary from among the members of the Association. <sup>Secretary</sup>

(2) The secretary may also be appointed as the treasurer. <sup>Idem</sup>

(3) In addition to his prescribed duties, the secretary shall maintain and keep for inspection in his office a roll in alphabetical order of the names and the addresses of the members of the Association and shall assign to each member a registration number. R.S.O. 1970, c. 452, s. 7. <sup>Roll</sup>

**8.** A statement in writing as to the membership or non-membership of any person in the Association purporting to be certified by the secretary is, without proof of office or signature of the secretary, receivable in evidence and constitutes *prima facie* proof of the facts stated therein for all purposes. R.S.O. 1970, c. 452, s. 8. <sup>Evidence of entry on the roll</sup>

**9.**—(1) The council may appoint a treasurer and such other officials as it considers appropriate. <sup>Treasurer</sup>



Books of  
account

(2) In addition to his prescribed duties, the treasurer shall enter in the books to be kept for the purpose a true account of all moneys received and paid by him. R.S.O. 1970, c. 452, s. 9.

## Regulations

**10.**—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 11, and, without limiting the generality of the foregoing,

- (a) respecting the government and discipline of members of the Association and students;
- (b) respecting the examination of applicants for admission as students, fixing the terms of articles and providing for the reduction of such terms by reason of educational standing or experience, and respecting the examination of students and applicants for membership in the Association;
- (c) prescribing the form of the summons referred to in subsection 27 (10);
- (d) respecting the practice and procedure for hearings held under this Act;
- (e) defining “professional misconduct” for the purposes of this Act and the regulations;
- (f) requiring the bonding of members of the Association or any class thereof, prescribing the collateral security for and terms, conditions and form of bonds, and providing for their forfeiture and the disposition of the proceeds;
- (g) designating a place in Ontario other than in The Municipality of Metropolitan Toronto as the head office of the Association.

## Approvals

- (2) No regulation is effective,
- (a) until it has been approved by a majority of the members of the Association present and voting at the next annual meeting or at a general meeting of the Association called for the purpose or until it has been submitted to the members of the Association for approval by means of a mailed secret ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and

- (b) until it has been approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 452, s. 10.

**11.**—(1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

- (a) governing the nomination, election and taking office of members of the council and providing procedures for determining disputes in connection therewith;
- (b) fixing the remuneration and reimbursement of members of the council and the members of the board and the examiners;
- (c) providing for the appointment of committees of the council and defining their composition and functions;
- (d) providing for the calling of meetings of the Association, the council and committees thereof and of the board, fixing the quorums, and governing the procedure for such meetings;
- (e) respecting the management of the property of the Association;
- (f) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;
- (g) respecting the application of the funds of the Association, and the investment and reinvestment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under the *Insurance Act*;
- (h) providing for the establishment of scholarships, bursaries and prizes;
- (i) respecting the keeping of records by the Association, the council and the board;
- (j) providing for services to encourage and assist members of the Association in the development of their professional competence and conduct and in

R.S.O. 1980,  
c. 218

carrying on the practice of professional land surveying;

- (k) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;
- (l) providing for the appointment and privileges of inactive or honorary members of the Association who shall be deemed not to be members of the Association for the purposes of this Act;
- (m) prescribing the duties of the secretary, the treasurer and any other officials;
- (n) prescribing the design of seals of members of the Association and providing for their use;
- (o) prescribing oaths, providing for their use and designating a depository for them;
- (p) prescribing forms and providing for their use;
- (q) respecting all other things that are considered necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval

(2) No by-law is effective until it has been approved by a majority of the members of the Association present and voting at the next annual meeting or at a general meeting of the Association called for the purpose, or until it has been submitted to the members of the Association for approval by means of a mailed secret ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time.

Interpre-  
tation

(3) The by-laws shall be interpreted as though they formed part of this Act. R.S.O. 1970, c. 452, s. 11.

Code of  
ethics

**12.—(1)** The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members of the Association must subscribe to and follow in the practice of professional land surveying.

Copies

(2) Copies of the code of ethics shall be sent to the members of the Association and shall be available free of charge to members of the public who apply therefor. R.S.O. 1970, c. 452, s. 12.

## BOARD

**13.—**(1) The board shall consist of,

Composi-  
tion of  
board of  
examiners

- (a) a member of the council appointed by the council who shall be the chairman of the board;
- (b) four members of the Association appointed by the council who shall hold office for a term of three years;
- (c) two persons appointed by the Lieutenant Governor in Council who shall hold office for a term of three years; and
- (d) the secretary.

(2) Where a member of the board resigns, dies or becomes unable to act before his term has expired, the authority that appointed him may appoint another person under subsection (1) to complete the unexpired portion of the term.

Vacancies

(3) Where the chairman of the board is unable to attend a meeting of the board, he shall designate a member of the board to act as chairman for the meeting.

Acting  
chairman

(4) The board, with the approval of the council, may appoint one or more competent persons to assist the board in any of the subjects of examination.

Examiners

(5) Each member of the board and any person appointed under subsection (4) shall take and subscribe to the prescribed oath before a person authorized by law to administer oaths.

Oaths

(6) The board shall hold at least one meeting in each year. R.S.O. 1970, c. 452, s. 13.

Meetings

## STUDENTS

**14.—**(1) No person shall be a student unless,

Qualifica-  
tions of  
students

- (a) he holds a certificate of educational standing required for admission to a course in civil engineering in a university in Ontario or evidence of an educational standing that in the opinion of the board is the equivalent thereof;
- (b) he passes such of the prescribed examinations as are required by the board; and
- (c) his articles are approved by the board.



Application  
to be  
student

(2) An application to be a student shall be made to the secretary and shall be accompanied by evidence satisfactory to the board of the applicant's educational standing, two references as to his good character, and his articles.

Stale  
articles

(3) No articles that have been executed for more than thirty days shall be submitted under subsection (2).

Registration

(4) When an application under this section is approved by the board, the secretary shall register the applicant as a student and notify the parties to the articles by mail of the registration. R.S.O. 1970, c. 452, s. 14.

Transfer  
of articles

**15.**—(1) A member of the Association who is a party to articles may, with the consent of the student and the approval of the council, transfer the articles to another member of the Association.

Idem

(2) Upon cause being shown to the council, the council may transfer articles from one member of the Association to another member. R.S.O. 1970, c. 452, s. 15.

#### MEMBERS

Existing  
members

**16.** Every person who is a member of the Association on the 31st day of December, 1969, shall be entered on the roll under this Act. R.S.O. 1970, c. 452, s. 16.

New  
members

**17.**—(1) The board shall upon application admit as a member of the Association a student who,

(a) is twenty-one or more years of age;

(b) resides,

(i) in Ontario,

(ii) outside Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional land surveying in respect of such works or facilities or has a place of employment in Ontario and proposes to practise professional land surveying in Ontario on a full-time basis;

(c) has faithfully and regularly served his term of articles, serving one-half of the term in actual survey work in the field and has filed with the society at

the close of each year of service a record of his training, certified by the member of the Association to whom he was articulated;

- (d) has, not more than one year before the completion of his articles, passed such of the prescribed examinations as are required by the board;
- (e) has received training and experience in professional land surveying satisfactory to the board;
- (f) has paid all dues owed by him to the Association;
- (g) has produced satisfactory evidence of continued good character;
- (h) has provided himself with a certified standard measure of length; and
- (i) has taken and subscribed the prescribed oath.

(2) The chairman of the board or any other member thereof who is designated by the board for the purpose may administer the oath mentioned in clause (1) (i). R.S.O. 1970, c. 452, s. 17.

**18.** The board shall upon application admit as a member of the Association any person who furnishes satisfactory proof that he, <sup>Surveyors from other jurisdictions</sup>

- (a) is twenty-one years or more of age;
- (b) resides in Ontario or resides outside Ontario under the circumstances set out in subclause 17 (1) (b) (ii);
- (c) is a member of an association of professional land surveyors in a jurisdiction other than Ontario that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario;
- (d) has received training and experience in professional land surveying satisfactory to the board;
- (e) has produced satisfactory evidence of good character;
- (f) has paid the prescribed fee;

(g) has passed such examinations and served articles for such term as the board determines; and

(h) has complied with clauses 17 (1) (h) and (i). R.S.O. 1970, c. 452, s. 18.

Hearing  
where  
application  
for member-  
ship, etc.,  
refused

**19.**—(1) Where an applicant for membership has met the academic and experience requirements, or an applicant for readmittance has paid the required dues and has passed any required examinations, and his application is refused, the board or the council, as the case may be, shall, upon the written request of the applicant received by the secretary within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter.

Conduct of  
hearing

(2) Section 27 applies with necessary modifications to any hearing conducted under this section except that upon any such hearing the board or the council, as the case may be, may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1970, c. 452, s. 19.

Recovery  
of dues

**20.**—(1) Any fee, assessment or levy payable under the by-laws shall be deemed to be a debt due to the Association and is recoverable with costs in the name of the Association in any court of competent jurisdiction.

Suspension  
for non-  
payment  
of dues

(2) Where any fee, assessment or levy payable under the by-laws remains unpaid for a period of six months after the date upon which it became due, the secretary shall send a written notice of such default by prepaid mail to the defaulting member at his address shown on the roll and, if payment is not made within one month thereafter, the council may direct the secretary to remove his name from the roll, and thereupon he ceases to be a member, but the council shall upon application readmit him if he,

(a) pays the amount of fees, assessments and levies that he would have owed if he had continued to be a member or such part thereof as the council considers just; and

(b) passes such examination as the council may direct. R.S.O. 1970, c. 452, s. 20.

Resignations

**21.** A member of the Association may resign from the Association upon giving written notice to the secretary and paying all dues owed by him to the Association. R.S.O. 1970, c. 452, s. 21.

**22.** Where a member of the Association has resigned<sup>Re-admission to membership</sup> from the Association, the board may upon application readmit him if he,

- (a) pays the annual membership fee for the year; and
- (b) passes such examination as the board may direct.  
R.S.O. 1970, c. 452, s. 22.

**23.** A member of the Association shall have a seal of the<sup>Seal</sup> prescribed design, which shall contain his name and his registration number. R.S.O. 1970, c. 452, s. 23.

**24.** The secretary shall issue a certificate of membership<sup>Certificate of membership</sup> in the Association to each member who shall keep it prominently displayed in his place of business. R.S.O. 1970, c. 452, s. 24.

**25.**—(1) Every member of the Association is entitled to<sup>Right to practise</sup> engage in the practice of professional land surveying.

(2) Every member of the Association is entitled to use the<sup>Right to use title</sup> title "Ontario Land Surveyor" or the abbreviation "O.L.S.". R.S.O. 1970, c. 452, s. 25.

#### PARTNERSHIPS, CORPORATIONS

**26.**—(1) No partnership, association of persons or cor-<sup>Practice prohibited by partnerships and corporations</sup>poration as such shall be a member or shall, except as authorized by this section, practise professional land surveying.

(2) A partnership, association of persons or corporation<sup>Certificates of authorization</sup> that holds a certificate of authorization may, in its own name, practise professional land surveying,

- (a) if one of its principal or customary functions is to engage in the practice of professional land surveying; and
- (b) if the practice of professional land surveying is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member of the Association; and
- (c) in the case of a corporation, if a majority of each class of its shares is owned by and registered in the name of one or more members of the Association.



Applications  
for  
certificates

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the secretary an application in the prescribed form containing,

- (a) the names and addresses of all its partners, members, officers or directors, as the case may be;
- (b) the names of all its partners, its members in the case of associations of persons, its directors or full-time employees in the case of corporations, who are the members of the Association who will be in charge of professional land surveying on its behalf;
- (c) from among the names specified under clause (b) the name or names of its official representative or representatives whose duty it is to ensure that this Act, the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the secretary within thirty days after the effective date of the change.

Issue of  
certificates

(4) If subsection (3) is complied with, the secretary shall issue to the applicant a certificate of authorization.

*Ipsa facto*  
revocation of  
certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional land surveying until a new certificate of authorization is issued.

Reprimand  
of holder of  
certificate

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member of the Association, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application  
of ss. 19, 27,  
28

(7) Sections 19, 27 and 28 apply with necessary modifications to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization. R.S.O. 1970, c. 452, s. 26.

## DISCIPLINE

**27.**—(1) Subject to subsection (2), where the council finds <sup>Powers of council to discipline members</sup> that a person who is a member of the Association is guilty of professional misconduct or has obtained admission as a member by reason of misrepresentation, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the roll.
2. Suspend the membership of such person for such time as the council considers proper and direct that the reinstatement of such membership on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership of such person be cancelled and that the name of such person be removed from the roll.
5. Direct that the decision of the council be published in detail or in summary in such manner or medium as the council considers appropriate in any particular case.
6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member whose conduct was the subject of such proceedings.

(2) The council shall not take any action under 'sub-<sup>Complaint and hearing</sup> section (1) unless,

- (a) a complaint under oath has been filed with the secretary and a copy thereof has been served on the person whose conduct is being investigated;
- (b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

- (c) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty.

Power to  
take sworn  
evidence

- (3) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath.

Failure  
to appear

- (4) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence.

Disciplinary  
hearings to  
be held  
*in camera*

- (5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the secretary before the day fixed for the hearing, the council may conduct the hearing in public or otherwise as it thinks proper.

Adjourn-  
ments

- (6) The council may adjourn any hearing at any time and from time to time.

Attendance  
of persons  
being in-  
vestigated

- (7) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions and any such person may be compelled to attend and give evidence in the manner provided in subsection (10).

Hearing of  
evidence

- (8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by the *Evidence Act*.

R.S.O. 1980,  
c. 145

Rules of  
evidence

- (9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed.

Summons  
to witness

- (10) The president, the vice-president or the secretary may, and the secretary upon application of a person whose conduct is being investigated shall, issue a summons in the prescribed form commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey

the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

(11) If any person,

Failure of  
witness to  
appear, etc.

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or
- (c) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest.

Examination  
and cross-  
examination

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision.

Decisions

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection (2), any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons

Record



therefor, and documents and things received in evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated.

Service of  
documents

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient.

Re-  
instatement  
after  
suspension

(16) Where a member has been suspended from practising under this section, he may, upon payment of all dues owed by him to the Association, apply to the council to be reinstated as a member and the council may terminate the suspension of such member upon such terms as it considers proper.

Re-  
admission  
after  
expulsion

(17) A person whose membership has been cancelled under this section may apply to the council for membership and the council shall, subject to subsection (18), hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council considers proper to be fulfilled before the applicant is admitted to membership or to be observed by such member thereafter.

Idem

(18) Except with the consent of the council, no application under subsection (17) shall be heard before the expiry of two years from the date of the cancellation of membership or the date of the final disposition of any appeal.

Idem

(19) Upon a hearing for admission to membership under subsection (17), the council shall follow, in so far as is practicable, the procedure provided for in the case of a complaint under this section, and a former member has the same right of appeal from an order made by the council under subsection (17) as is provided in section 28.

Committee  
of council

(20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president or the vice-president, and may delegate to the committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council.

(21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1970, c. 452, s. 27. Practice pending appeal

#### APPEAL

**28.**—(1) Any person who has been refused admittance or readmission to membership in the Association or who has been reprimanded or whose membership is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Divisional Court in accordance with the rules of court within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation. Appeal

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the secretary shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the board or council in dealing with and disposing of the matter complained of. Certified copies of papers

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the secretary, the appeal shall be deemed to be abandoned. R.S.O. 1970, c. 452, s. 28 (1-3). Failure to pay costs

(4) Upon the hearing of an appeal under this section, the Divisional Court may make such order as the court considers proper or may refer the matter or any part thereof back to the board or council with such directions as the court considers proper. R.S.O. 1970, c. 452, s. 28 (6). Orders

#### OFFENCES

**29.**—(1) Every person, other than a member of the Association, who, Offences, persons

- (a) uses the title "Ontario Land Surveyor" or uses any addition to or abbreviation of such title, or uses the designation "surveyor" or any words, name or designation that will lead to the belief that he is a member of the Association;

(b) advertises, holds himself out, or conducts himself in any way or by any means as a member of the Association; or

(c) engages in the practice of professional land surveying,

is guilty of an offence.

Idem

(2) Every person, who,

(a) wilfully procures or attempts to procure admission to the Association for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either oral or written;

(b) wilfully procures or attempts to procure a certificate of authorization for a partnership, association of persons or corporation by making, producing or causing to be made or produced any fraudulent representation or declaration either oral or written; or

(c) knowingly makes any false statement in any application, declaration or other document under this Act or the regulations,

is guilty of an offence.

Offences,  
partnerships,  
associations  
and  
corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

(a) practises professional land surveying;

(b) uses any name, title, description or designation that will lead to the belief that it is entitled to practise professional land surveying; or

(c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional land surveying,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises

professional land surveying in contravention of this Act, every member of the partnership, every member of the association of persons or the corporation and every director thereof, is guilty of an offence.

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on conviction, liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. <sup>Penalties</sup>

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1970, c. 452, s. 29. <sup>Limitation of proceedings</sup>

**30.** No action or other proceedings for damages shall be instituted against the council or the board, or any member or official of the council or the board or any person appointed by the council or the board for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1970, c. 452, s. 30. <sup>Protection from actions</sup>





## CHAPTER 493

## Surveys Act

## 1. In this Act,

Interpre-  
tation

- (a) “ascertainable point” means a point found or re-established in its original position on a line or boundary established during the original survey or on a line or boundary established during the survey of a plan of subdivision registered under the *Land Titles Act* or the *Registry Act*; R.S.O. 1980,  
cc. 230, 445
- (b) “broken concession” means a concession any boundary of which is broken in whole or in part by a lake or river;
- (c) “broken lot” means an irregular lot or a regular lot whose area is diminished or increased by a natural or artificial feature shown on the original plan;
- (d) “competent authority” means any governmental authority in existence before or after the creation of the Province of Ontario under whose instructions Crown land in Ontario has been or may be surveyed, or the owner of a tract of land that was not included in a township at the time the tract was granted by the Crown under whose instructions the first survey of the boundaries or interior of the tract has been made;
- (e) “concession” means a tier of township lots;
- (f) “irregular lot” means a township lot whose boundaries according to the original plan do not conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;
- (g) “land” includes land covered with water;
- (h) “last ascertainable side line” means a line in a broken concession established from the front of the concession on the course of a side line of a lot

from the lot corner nearest the end of the part of the concession so broken;

R.S.O. 1980,  
cc. 230, 445

- (i) “lost corner” means a corner established during an original survey or during a survey of a plan of subdivision registered under the *Land Titles Act* or the *Registry Act* where the original post no longer exists or never existed and which cannot be re-established from the field notes of either of such surveys or by evidence under oath;
- (j) “Minister” means the Minister of Natural Resources;
- (k) “Ministry” means the Ministry of Natural Resources;
- (l) “obliterated boundary” means a boundary established during an original survey or during a survey of a plan of subdivision registered under the *Land Titles Act* or the *Registry Act* where the original posts or blazed trees no longer exist and which cannot be re-established from the field notes of either of such surveys or by evidence under oath;
- (m) “original plan” means a plan certified by the Surveyor General as being the original plan of an original survey;
- (n) “original post” means any object that defines a point and that was placed, planted or marked during the original survey or during a survey of a plan of subdivision registered under the *Land Titles Act* or the *Registry Act*;
- (o) “original survey” means a survey made under competent authority;
- (p) “proof line” means a line surveyed across one or more concessions in the original survey of a single front township or of a double front township to govern the course of a side line of a lot;
- (q) “regular lot” means a township lot whose boundaries according to the original plan conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;
- (r) “surveyor” means an Ontario land surveyor registered under the *Surveyors Act*;
- (s) “unbroken lot” means a regular lot whose area is not diminished or increased by a natural or artificial feature shown on the original plan;

R.S.O. 1980,  
c. 492

- (t) "undisputed corner" means a corner of a parcel of land at which the original post exists, or a corner established under this Act or any predecessor of this Act. R.S.O. 1970, c. 453, s. 1; 1972, c. 4, s. 12.

## PART I

### GENERAL

**2.** No survey of land for the purpose of defining, locating or describing any line, boundary or corner of a parcel of land is valid unless made by a surveyor or under the personal supervision of a surveyor. R.S.O. 1970, c. 453, s. 2. Validity of surveys

**3.** All lines, boundaries and corners established under the authority of any Act heretofore or hereafter in force remain valid and all other things done under any such authority and in conformity therewith remain valid notwithstanding the repeal of such authority. R.S.O. 1970, c. 453, s. 3. Lines, etc., remain valid

**4.—(1)** Every surveyor shall make and preserve exact and regular field notes of all his surveys and shall keep a proper record and index of all such field notes and shall exhibit or give copies of the same to any surveyor for a reasonable charge. Duty to keep field notes, etc.

**(2)** Where a surveyor has died and no arrangements have been made within six months of his death to place his field notes, records and indices in the custody of a surveyor in active practice, the secretary-treasurer of the Association of Ontario Land Surveyors shall cause such field notes, records and indices to be delivered by the personal representative of the deceased surveyor to the Minister who shall hold them for the benefit of the estate for a period not exceeding five years, and upon the expiry of that period such field notes, records and indices become the property of the Crown and may be disposed of by the Minister in any manner he considers proper. Disposition of notes of deceased surveyor

**(3)** So long as such field notes, records and indices are in the possession of the Minister, he shall exhibit or give copies of the same to any person for a reasonable charge. R.S.O. 1970, c. 453, s. 4. To be deemed public documents

**5.** A surveyor may at any time require a chainman or any other person in his employ to take an oath in writing to act justly and exactly according to the best of his judgment and ability and to render a true account of his Chainman's oath



work to the surveyor, which oath the surveyor is hereby authorized to administer. R.S.O. 1970, c. 453, s. 5.

Right to  
enter land,  
buildings

**6.—**(1) A surveyor or a person in his employ while making a survey may,

(a) at any time enter and pass over the land of any person; or

(b) at any time suitable to the occupant of a building enter the building,

and do any act thereon or therein for any purpose of the survey, but the surveyor is liable for any damage occasioned thereby.

Offence for  
obstructing

(2) Every person who interferes with or obstructs a surveyor or a person in his employ in the exercise of any of the powers conferred by subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 453, s. 6.

Examination  
re  
boundaries,  
etc.

**7.—**(1) Where a surveyor has reasonable grounds for believing that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position, or has a writing, plan or document concerning the true position of a line, boundary, corner or post, he may examine such person under oath or require such person to produce such writing, plan or document for his inspection and for such purposes the surveyor has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,  
c. 411

Statement  
under oath

(2) The surveyor may cause evidence taken by him under this section to be put in writing in the form of a statement under oath. 1971, c. 50, s. 81 (1).

True and  
unalterable  
base lines  
and  
meridian  
lines

**8.** Every base line and meridian line surveyed under the instructions of the Minister before the 28th day of March, 1956; that are shown on the original plan thereof shall be deemed to have been made by competent authority and are true and unalterable and shall be deemed to be defined by the original posts or blazed trees in the survey thereof. R.S.O. 1970, c. 453, s. 8.

True and  
unalterable  
lines, etc.

**9.** Notwithstanding section 58, every line, boundary and corner established by an original survey and shown on the original plan thereof is a true and unalterable line, boundary or corner, as the case may be, and shall be deemed to be

defined by the original posts or blazed trees in the original survey thereof, whether or not the actual measurements between the original posts are the same as shown on the original plan and field notes or mentioned or expressed in any grant or other instrument, and every road allowance, highway, street, lane, walk and common shown on the original plan shall, unless otherwise shown thereon, be deemed to be a public road, highway, street, lane, walk and common, respectively. R.S.O. 1970, c. 453, s. 9.

**10.** A surveyor in establishing or re-establishing a line, boundary or corner surveyed under competent authority and shown on the original plan thereof, other than a township subdivision plan, is governed by sections 54 and 55. R.S.O. 1970, c. 453, s. 10.

Methods governing plans, other than township subdivision plans

**11.—(1)** Where a lake or river is shown on an original plan of Crown lands and a parcel of land shown thereon is given an acreage covering the land area only, such parcel of land does not include any land covered by the water of the lake or river.

Where land covered by water not included

(2) Subsection (1) does not affect the rights of any person where such rights were determined by a court before the 8th day of July, 1913. R.S.O. 1970, c. 453, s. 11.

Certain rights not affected

**12.** Where the Crown has conveyed a parcel of land composed of two or more township lots or parts of lots in concessions adjoining each other by an instrument that contains a metes and bounds description of the parcel prepared from an original plan, the side lines or limits of such lots or parts of lots surveyed in accordance with this Act or any predecessor of this Act constitute the side lines or limits of the parcel. R.S.O. 1970, c. 453, s. 12.

Lands in township concessions included in same grant

## PART II

### FRONT AND REAR TOWNSHIPS

**13.—(1)** In this Part, “front and rear township” means a township where the usual practice in the original survey was to survey the township boundaries, the base lines, if any, and the side lines of the lots and to establish the corners of the lots.

Interpretation

(2) A surveyor in re-establishing a lost corner, an obliterated boundary or an obliterated side line of a lot in a front and rear township shall obtain the best evidence available respecting the corner, boundary or side line,

Re-establishment of lost corners, etc.

but if the corner, boundary or side line cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister, who shall instruct him how to proceed.
2. If a part of the township boundary or a base line is obliterated, he shall re-establish the township boundary or the base line by joining the nearest ascertainable points thereof as intended in the original survey.
3. If a side line or part thereof is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey, and if an end of a side line is obliterated, he shall re-establish such end by measuring along the township boundary or base line in the manner in which such measurement was made as shown on the original plan and field notes.
4. If the lost corner is a corner of a lot, he shall determine the distance along the side line between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey. R.S.O. 1970, c. 453, s. 13.

Unsurveyed  
boundaries

**14.** A boundary of a lot shown on the original plan of a front and rear township that was not surveyed in the original survey is the straight line between the two corners of such lot. R.S.O. 1970, c. 453, s. 14.

Fronts of  
concessions

**15.** The front of a concession in a front and rear township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered, but in the case of a township in which the concessions are not numbered or lettered, the front of a concession is the boundary of the concession that is nearest the boundary of the township or the base line along which the width of the first lot was measured. R.S.O. 1970, c. 453, s. 15.

Aliquot  
parts of  
lots

**16.—(1)** The aliquot part of a lot in a front and rear township is the aliquot part of the area of the lot, whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(2) The boundaries of an aliquot part of a lot in a front and rear township, of which lot no aliquot part was surveyed before the 1st day of January, 1959, shall be surveyed on the astronomic course intended in the original survey for the side lines of such lot or on the astronomic course intended for the base line of the township, as the case may be. R.S.O. 1970, c. 453, s. 16.

Boundaries  
of aliquot  
parts

## PART III

### SINGLE FRONT TOWNSHIPS

**17.—**(1) In this Part, “single front township” means a township where the usual practice in the original survey was to survey the township boundaries, the proof lines and the base lines, if any, and the concession lines for the fronts of the concessions and to establish the lot corners on the front of each concession. R.S.O. 1970, c. 453, s. 17 (1).

Interpre-  
tation

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a single front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

Re-establish-  
ment of lost  
corners, etc.

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
2. If the lost corner is a corner of a lot on a township boundary or on the front of a concession, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
3. If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by joining the nearest ascertainable points thereof as intended in the original survey.
4. If a side line of a lot was surveyed as a proof line and part of the side line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.



5. If the front line of a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such concession line on the same astro-nomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.
6. If the lost corner is a corner of a lot that is beyond the last undisputed corner on the front of a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along the front of the concession the distance shown on the original plan and field notes from the last undisputed corner. R.S.O. 1970, c. 453, s. 17 (2); 1972, c. 30, s. 1.

Fronts of  
concessions

**18.** The front of a concession in a single front township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. R.S.O. 1970, c. 453, s. 18.

Concession  
line not  
surveyed or  
obliterated

**19.** Where in a single front township the whole of the front boundary of a concession was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such front boundary in whole or in part shall establish or re-establish such boundary to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1970, c. 453, s. 19.

Concession  
not surveyed  
in original  
township,  
side lines  
established

**20.** Where the front of a concession in a single front township was not surveyed in the original survey, the side lines of the lots in such concession shall be surveyed from the corners of the lots on the front of the concession to the rear thereof to the depth of the concession, that is, to the proportionate depth intended in the original survey as shown on the original plan and field notes having due regard for any road allowance made in the original survey, and the straight line joining the ends of the lot lines so surveyed is the boundary of such concession. R.S.O. 1970, c. 453, s. 20.

Establish-  
ment of  
side lines

**21.** A surveyor in establishing in a concession in a single front township a side line of a lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from

which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

2. If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.
3. If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken by a lake or river, he shall establish the side line at such angle with the front boundary of the concession as shown on the original plan and field notes, or, if parts of the front boundary of the concession have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the front boundary of the concession as the Minister may direct.
4. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line

was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.

5. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.
6. If the concession is wholly broken in front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots in the broken front concession, he shall establish the side lines in such broken front concession in accordance with this section from the corners of the lots on the front boundary of the concession in the rear thereof to the lake or river.
7. If the concession is partly broken in front at either end by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from the points on the rear boundary of the concession determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the intersection of the last ascertainable side line with the rear of the concession as shown on the original plan, but where such end of the concession is wholly bounded by a lake or river and no measurement was made in the original survey along the rear of the concession to the lake or river, he shall determine the points from which the side lines of such lots shall be drawn by measuring along the rear bound-

ary the widths of the lots as intended in the original survey from the intersection of the last ascertainable side line.

8. If the concession is partly broken in front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from points on the rear boundary of the concession determined by dividing proportionately as intended in the original survey the distance between the intersections of the last ascertainable side lines on both sides of the lake or river with the rear boundary of the concession. R.S.O. 1970, c. 453, s. 21.

**22.**—(1) The aliquot part of a lot in a single front township is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. R.S.O. 1970, c. 453, s. 22 (1); 1972, c. 30, s. 2.

Aliquot  
parts  
described

(2) The boundaries of an aliquot part of a lot in a single front township of which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the lot is broken on its front at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and, where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the front of the concession as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended for the front of the concession. R.S.O. 1970, c. 453, s. 22 (2).

Boundaries

**23.**—(1) A surveyor in establishing the course of a township boundary line or a proof line in a single front township for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the front and rear ends of the boundary line or proof line in each concession. R.S.O. 1970, c. 453, s. 23 (1); 1972, c. 30, s. 3.

Governing  
course for  
side lines



Idem

(2) A surveyor in establishing the course of the front of a concession in a single front township for the purpose of measuring an angle with such front to establish a side line of a lot shall determine the course of the straight line joining the ends of such front, but where the front of the concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. R.S.O. 1970, c. 453, s. 23 (2).

## PART IV

### DOUBLE FRONT TOWNSHIPS

Interpre-  
tation

**24.**—(1) In this Part, “double front township” means a township where the usual practice in the original survey was to survey the township boundaries, the proof lines and base lines, if any, and the concession lines forming the front boundaries of the half lots and to establish the front corners of the half lots. R.S.O. 1970, c. 453, s. 24 (1).

Re-establish-  
ment of  
lost  
corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a double front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
2. If the lost corner is a corner of a lot on a township boundary or on a concession line, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.

3. If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by joining the nearest ascertainable points thereof as intended in the original survey.
4. If a side line of a lot was surveyed as a proof line and part of the side line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.
5. If the concession line forming the front boundary of the half lots in a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such concession line on the same astro-nomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.
6. If the lost corner is a corner of a lot that is beyond the last undisputed corner on a concession line forming the front boundary of the half lots in a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along such concession line the distance shown on the original plan and field notes from the last undisputed corner. R.S.O. 1970, c. 453, s. 24 (2); 1972, c. 30, s. 4.

**25.** The front boundary of a half lot in a double front township is the boundary of the half lot that abuts the road allowance between two concessions made in the original survey, or, where a concession is broken by a lake or river, the front boundary of a half lot is the original shore of the lake or river opposite the prolongation of such road allowance across the lake or river. R.S.O. 1970, c. 453, s. 25.

**26.** Where in a double front township the whole of the concession line forming the front boundary of the half lots was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such concession line in whole or in part shall establish or re-establish such concession line to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1970, c. 453, s. 26.

**27.** A surveyor in establishing the rear boundaries of half lots in a concession in a double front township shall proceed as follows without reference to the description contained in any grant or other instrument:

1. If the concession is unbroken on both fronts by a lake or river, he shall join by straight lines the midway points of the side lines of the lots and their production through the concession.
2. If the concession is broken on either or both fronts by a lake or river but the fronts of the concession are not wholly broken at either or both ends, he shall join by a straight line the midway points of the last ascertainable side line and its production through the concession at each end of the broken front.
3. If the concession is wholly broken on both fronts at either end of the concession by a lake or river but not broken on both fronts throughout the entire concession, he shall establish the midway point of the last ascertainable side line and its production through the concession and from this point he shall establish the rear boundary of the half lots on both fronts of the concession on the astronomic course intended in the original survey.
4. If the concession is broken at its end on one of the fronts of the half lots by a lake or river but not so broken on the rear boundaries of such half lots, he shall establish the midway point of the last ascertainable side line of the half lots so broken and its production through the concession and from such midway point join a straight line to a point on the township boundary determined by measuring along that boundary the distance intended in the original survey from the unbroken front of the concession. R.S.O. 1970, c. 453, s. 27.

Establish-  
ment of  
side lines

**28.** A surveyor in establishing in a concession in a double front township a side line of a half lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof

- line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.
2. If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at that end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.
  3. If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken by a lake or river, he shall establish the side line at such angle with the concession line as shown on the original plan and field notes, or, if parts of the concession line have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the concession line as the Minister may direct.
  4. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.
  5. If the end boundaries of the concession were not surveyed in the original survey because they



were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.

6. If the concession is wholly broken on one front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots, he shall establish the side lines of the broken half lots according to this section from the rear corners of the half lots on the unbroken front of the concession.
7. If the concession is wholly broken on both fronts at either end by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by measuring along the rear boundaries of the half lots the widths of the half lots as intended in the original survey from the intersections of the last ascertainable side lines of the half lots with the rear boundaries of the half lots.
8. If the concession is partly broken on one front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the width in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by dividing proportionately as intended in the original survey the distance between the intersections of the

last ascertainable side lines of the half lots on both sides of the lake or river with the rear boundaries of the half lots.

9. If the concession is partly broken on either front at either end but not broken at the end of the rear boundary of the half lots by a lake or river and no posts were planted in the original survey on the banks of such lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the last ascertainable side line of the half lot on the front of the concession so broken.
10. If the concession is partly broken on either front at either end by a lake or river and also broken at the end of the rear boundary of the half lots and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of the broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by measuring along such rear boundary the widths of the broken half lots as intended in the original survey from the intersection of the last ascertainable side line of the half lot on the front of the concession so broken.  
R.S.O. 1970, c. 453, s. 28.

**29.**—(1) The aliquot part of a half lot in a double front township is the aliquot part of the area of the half lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. Aliquot  
parts  
described

(2) The boundaries of an aliquot part of a half lot in a double front township of which half lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the half lot, as the case may be, but where in such latter case the front of the half lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be sur- Boundaries

veyed parallel to the straight line joining the rear corners of the half lot, and where the rear boundary of the half lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the half lot as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended in the original survey for the front of the half lot. R.S.O. 1970, c. 453, s. 29.

Governing  
course for  
side lines

**30.**—(1) A surveyor in establishing the course of a township boundary line or a proof line in a double front township for the purpose of surveying a side line of a half lot shall determine the course of the straight line joining the front and rear ends of such boundary line or proof line in each concession.

Idem

(2) A surveyor in establishing the course of the front of a concession in a double front township for the purpose of measuring an angle with such front to establish a side line of a half lot shall determine the course of the straight line joining the ends of such front, but where the front of a concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. R.S.O. 1970, c. 453, s. 30.

## PART V

### SECTIONAL TOWNSHIPS WITH DOUBLE FRONTS

Interpre-  
tation

**31.**—(1) In this Part, “sectional township with double fronts” means a township divided into sections and lots where the usual practice in the original survey was to survey the township boundaries, concession lines and side lines of sections defining section boundaries and to establish the front corners of the lots and the section corners. R.S.O. 1970, c. 453, s. 31 (1).

Re-establish-  
ment of  
lost  
corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with double fronts shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
3. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than 400 metres apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.
4. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes not as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made



in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

5. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not on a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section on opposite sides of the concession line.
6. If the lost corner is the corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not in a straight line, and the side lines between such sections and adjacent sections on the opposite sides of the concession line are shown on the original plan and field notes as not in a straight line and the section corners of the adjacent sections on the concession line are lost, he shall report the circumstances to the Minister who shall instruct him how to proceed.
7. If the lost corner is a corner of a lot in a section on a front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance, opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the

road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.

8. If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
9. If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
10. If a concession line is obliterated beyond the last side line of a section in a concession broken by a lake or river at its end, he shall re-establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the concession line in that section.
11. If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall re-establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof. R.S.O. 1970, c. 453, s. 31 (2); 1971, c. 53, s. 1; 1978, c. 87, s. 32 (1).

(3) Paragraphs 3 to 6 of subsection (2) do not apply to any corner of a section re-established before the 24th day of March, 1911. R.S.O. 1970, c. 453, s. 31 (3). Application

**32.** The front of a concession in a sectional township with double fronts is the boundary of the concession that abuts the road allowance between two concessions shown on the original plan or, where a concession is broken by a lake or river, that is nearest the prolongation of such road allowance across the lake or river. R.S.O. 1970, c. 453, s. 32. Fronts of concessions

**33.** A surveyor in establishing the rear boundary of a concession in a sectional township with double fronts shall proceed as follows: Establishment of rear boundaries of concessions

1. If the two concessions in a section are unbroken by a lake or river on their fronts, he shall, if

intended in the original survey, join by straight lines the midway points of the side lines of the lots and their productions through the section.

2. If the two concessions in a section are broken by a lake or river on either or both of their fronts but the fronts of the two concessions are not wholly broken at either or both ends of the section, he shall, if intended in the original survey, join by a straight line the midway points between the fronts of the two concessions on the last ascertainable side line in the section at each end of the broken front.
3. If one of the concessions in a section is broken by a lake or river on its front at either or both ends of the section but not broken through the entire section, he shall join by a straight line a point on the broken side line of the section determined by measuring the distance shown on the original plan and field notes from the unbroken front and the midway point between the fronts of the two concessions on the last ascertainable side line in the section at the end of the broken front.
4. If one of the concessions in a section is wholly broken by a lake or river on its front, he shall measure the distance shown on the original plan and field notes along the side lines of the lots from the front of the unbroken concession.
5. If one of the concessions in a section is partly or wholly broken by a lake or river on its front and at either or both ends of the section and the other concession in the section is partly or wholly broken by a lake or river at either or both ends of the section and partly broken on its front, he shall establish the rear boundary of the concessions so broken on their fronts on the astronomic course intended in the original survey from a point determined by measuring the distance shown on the original plan and field notes from the unbroken part of the front of such concession along the last ascertainable side line in that concession at the end of the broken front.
6. If both concessions in a section are wholly broken by a lake or river on their fronts and no posts were planted in the original survey to establish the

rear boundaries of such concessions, he shall establish the rear boundary of such concessions on the astronomic course intended in the original survey from a point established on the limit of the section nearest the end from which the lots are numbered midway between the section corners. R.S.O. 1970, c. 453, s. 33.

**34.** A surveyor in establishing in a concession in a sectional township with double fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows: Establishment of side lines

1. Where any such township, other than the townships of Eastnor, Lindsay and St. Edmunds in the County of Bruce, was surveyed under the 1,000-acre or 1,800-acre sectional system and in the townships of Cumming, Idington, O'Brien, Owens and Williamson in the Territorial District of Cochrane, and if intended in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side at the other end of the section in which the lot is located.
2. Where any such township, other than the townships of Cumming, Idington, O'Brien, Owens and Williamson in the Territorial District of Cochrane, was surveyed under any sectional system other than the 1,000-acre or 1,800-acre system and in the townships of Eastnor, Lindsay and St. Edmunds in the County of Bruce and if intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located at the other end of the section in which the lot is located, but where the side line of the section from which the lots are numbered is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course of the side line of the section at the other end of the section, and where both side lines of the section are broken by a lake or



river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course shown on the original plan and field notes.

3. If the fronts of either or both concessions in a section are partly or wholly broken by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of such broken lots in accordance with this section from points on the section limit fronting each concession determined by dividing proportionately as intended in the original survey the distance between the two nearest undisputed lot corners in the section, one being on either side of the side line of the broken lot to be established.
4. If one of the concessions in a section is wholly broken by a lake or river on its front and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such a concession in accordance with this section from the rear corners of the lots in the concession to the rear thereof.
5. If both concessions in a section are wholly broken by a lake or river on their fronts and wholly broken at one end of the section and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such concessions in accordance with this section from points on the rear concession line determined by measuring along the rear concession line the distance intended in the original survey from the section limit at the end of the section that is not wholly broken.

6. If one of the concessions in a section is broken at either end but not wholly broken on its front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of any such broken lot in accordance with this section from the rear corners of the lots of the concession to the rear.
7. If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots, he shall establish the side lines of any such lots in accordance with this section from points determined by measuring the distance intended in the original survey from the nearest undisputed corner along the astro-nomic course intended in the original survey for the front of the concession. R.S.O. 1970, c. 453, s. 34; 1971, c. 53, s. 2.

**35.**—(1) Where the whole or a part of any lot in a sectional township with double fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Aliquot parts</sup>

(2) Where the whole or a part of a broken lot in a sectional township with double fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Idem</sup>

(3) Where the whole or a part of an unbroken lot in a sectional township with double fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Idem</sup>

(4) The boundaries of an aliquot part of a lot to which subsection (1) or (2) applies and in which lot no <sup>Boundaries of aliquot parts</sup>

aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended in the original survey for the front of the concession.

Idem

(5) The boundaries of an aliquot part of a lot to which subsection (3) applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by dividing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. R.S.O. 1970, c. 453, s. 35.

Governing  
course for  
side lines

**36.** A surveyor in establishing the course of a boundary line of a section in a sectional township with double fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. R.S.O. 1970, c. 453, s. 36.

## PART VI

### SECTIONAL TOWNSHIPS WITH SINGLE FRONTS

Interpre-  
tation

**37.**—(1) In this Part, “sectional township with single fronts” means a township divided into sections and lots where the usual practice in the original survey was to survey the township boundaries, concession lines and side lines of the sections and to establish the front corners of the lots and the section corners. R.S.O. 1970, c. 453, s. 37 (1).

Re-establish-  
ment of  
lost  
corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with single fronts shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary

cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
2. If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.
3. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than 400 metres apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.
4. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession are shown on the original plan and field notes not as a straight line, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining



with a straight line the nearest ascertainable points on the concession line.

5. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section.
6. If the lost corner is the corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite sides of the concession line are shown on the original plan and field notes not as a straight line, he shall report the circumstances to the Minister who shall instruct him how to proceed.
7. If the lost corner is a corner of a lot in a section on the front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.
8. If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner intended in the original survey.
9. If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
10. If a concession line is obliterated beyond the last side line of a section in a concession broken by a

lake or river at its end, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the concession line in that section.

11. If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof. R.S.O. 1970, c. 453, s. 37 (2); 1972, c. 30, s. 5; 1978, c. 87, s. 32 (2).

(3) Paragraphs 3 to 6 of subsection (2) do not apply to any corner <sup>Application</sup> of a section re-established before the 24th day of March, 1911. R.S.O. 1970, c. 453, s. 37 (3).

**38.** The front of a concession in a sectional township <sup>Fronts of concessions</sup> with single fronts is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. R.S.O. 1970, c. 453, s. 38.

**39.** A surveyor in establishing in a concession in a <sup>Establishment of side lines</sup> sectional township with single fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the astronomic course for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, but where the side line of such section is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course of the side line of the section at the other end of such section, but where both side lines of the section are broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course shown on the original plan and field notes.
2. If the front of a concession in a section is partly or wholly broken by a lake or river and no post was planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run across the lake or river

to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from a point on the section limit fronting the concession determined by dividing proportionately as intended in the original survey the distance between the corners of the section.

3. If the front of a concession in a section is wholly broken by a lake or river and no post was planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from the front corner of the lots in the concession to the rear thereof.
4. If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots and the original field notes do not show that a survey line was run in the original survey to regulate the widths in front of the broken lots, he shall establish the side lines of any such lot in accordance with this section from points determined by measuring the distance intended in the original survey from the nearest undisputed corner along the astronomic course intended in the original survey for the front of the concession. R.S.O. 1970, c. 453, s. 39.

Aliquot  
parts

**40.**—(1) Where the whole or a part of any lot in a sectional township with single fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) Where the whole or a part of a broken lot in a sectional township with single fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(3) Where the whole or a part of an unbroken lot in a sectional township with single fronts was patented on or

after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(4) The boundaries of an aliquot part of a lot to which subsection (1) or (2) applies and in which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended in the original survey for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended for the front of the concession.

(5) The boundaries of an aliquot part of a lot to which subsection (3) applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by dividing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. R.S.O. 1970, c. 453, s. 40.

**41.** A surveyor in establishing the course of a boundary line of a section in a sectional township with single fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. R.S.O. 1970, c. 453, s. 41.

## PART VII

### SECTIONAL TOWNSHIPS WITH SECTIONS AND QUARTER SECTIONS

**42.** In this Part, "sectional township with sections and quarter sections" means,



- (a) a township divided into sections and quarter sections without road allowances between sections where the usual practice in the original survey was to survey the township boundaries and section lines and to establish the section corners and quarter section corners; or
- (b) a township divided into sections and quarter sections with road allowances between sections where the usual practice in the original survey was to survey the township boundaries and the section lines on the west and south sides of the road allowances and to establish the section corners and the quarter section corners on the surveyed lines. R.S.O. 1970, c. 453, s. 42.

Widths of  
certain road  
allowances

**43.**—(1) Every road allowance between sections of sectional townships surveyed under instructions of the Department of Interior of Canada is one chain wide and every such road allowance lies north and east of the south and west sides of the road allowance as surveyed in the original survey.

Land  
detached  
from  
original  
road  
allowances

(2) The strips of land formerly forming parts of the original road allowances mentioned in subsection (1) are detached therefrom and attached to and form part of the quarter section immediately adjoining the strips of land on the east and north thereof.

Original  
section  
and quarter  
section  
posts to  
govern

(3) The section and quarter section corners established in the original survey of the townships mentioned in subsection (1) continue to be the governing points for the purpose of re-establishing a lost corner or obliterated boundary of a section or quarter section and establishing section and quarter section corners not established in the original survey. R.S.O. 1970, c. 453, s. 43.

Re-establish-  
ment  
of lost  
corners and  
obliterated  
boundaries

**44.**—(1) A surveyor in re-establishing a lost corner or obliterated boundary surveyed in the original survey in a sectional township with sections and quarter sections with or without road allowances shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
2. If the lost corner is a corner of a section or quarter section on or along a township boundary,

he shall determine the distance between the nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.

3. If the lost corner is a corner of a section on a section boundary in the interior of a township, he shall re-establish the corner by intersecting the straight lines joining the nearest ascertainable points on the adjoining intersecting section boundaries.
4. If the lost corner is a corner of a quarter section on a section boundary in the interior of a township, he shall re-establish the corner by joining the nearest ascertainable points on the section boundary and shall determine the distance between the section corners of the section in which the quarter section corner is lost and divide the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
5. If part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
6. If a part of a section boundary in the interior of a township is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

(2) A surveyor in establishing an original section line on the north or east side of a road allowance in a township defined in clause 42 (b) shall measure the width of the road allowance shown on the original plan and field notes from the section line on the south or west side, as the case may be, of the road allowance. R.S.O. 1970, c. 453, s. 44.

**45.** A surveyor in establishing a corner of a section or quarter section shown on the original plan and field notes on a section line not surveyed in the original survey in a township defined in clause 42 (b) shall proceed as follows:

- (a) If the corner is a corner of a section, he shall measure the widths of the road allowances shown

on the original plan and field notes from the two section corners of the adjacent sections on the opposite sides of the road allowances.

- (b) If the corner is a corner of a quarter section, he shall measure the width of the road allowance as shown on the original plan and field notes from the opposite quarter section corner on the other side of the road allowance and join a straight line between that quarter section corner and the opposite quarter section corner on the section line at the other side of the section. R.S.O. 1970, c. 453, s. 45.

Establish-  
ment of  
interior  
boundaries of  
half sections  
and quarter  
sections

**46.** The interior boundaries of half sections or quarter sections shall be surveyed by connecting the opposite quarter section corners on the boundaries of the section by straight lines. R.S.O. 1970, c. 453, s. 46.

Aliquot  
parts  
described

**47.**—(1) The aliquot part of a quarter section in a sectional township with sections and quarter sections is the aliquot part of the frontage or the depth between the quarter section corners whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) The aliquot part of a half section in a sectional township with sections and quarter sections is the aliquot part of the frontage or depth between the quarter section corners of the quarter sections forming the half section whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Establish-  
ment of  
boundaries  
of aliquot  
parts

(3) The interior boundaries of an aliquot part of a quarter section shall be surveyed by connecting by straight lines the points on the boundaries of the quarter section determined in accordance with this section. R.S.O. 1970, c. 453, s. 47.

## PART VIII

### MUNICIPAL AND CROWN RESURVEY

Application  
for survey  
in a  
municipality

**48.**—(1) The council of a municipality or the board of trustees of an improvement district, upon its own motion, may, or upon the petition of one-half of the landowners affected shall, pass a by-law authorizing an application to the Minister to cause a survey to be made under his direction for the purpose of fixing the position of a disputed

or lost line, boundary or corner that is in the municipality and that has been surveyed under competent authority or under the *Land Titles Act* or the *Registry Act*.

R.S.O. 1980,  
cc. 230, 445

(2) The Minister shall appoint and instruct a surveyor to make the survey for which an application has been made under subsection (1) and when the survey has been made and the plan and field notes have been examined by the Minister, the Minister shall cause a notice to be published once in each week for four consecutive weeks in a newspaper having general circulation in the municipality in which the survey has been made of a hearing to be held by him at a stated place on a day not less than ten days after the last publication of the notice at which hearing the survey will be considered and any interested persons will be heard, and upon the evidence submitted the Minister may direct such amendments to be made as he considers necessary and may confirm the position of the disputed or lost line, boundary or corner fixed by the survey, and any line, boundary or corner so confirmed is, subject to section 49, an unalterable line, boundary or corner and is final and conclusive and shall not be questioned in any court.

Confirmation  
of survey

(3) The Minister shall mail within ten days of confirming a survey under subsection (2) a copy of the plan and field notes of the survey to the municipality and to every person who appeared at the hearing.

Notice of  
confirmation

(4) Subject to section 51, the cost of a survey under subsection (2) shall be paid to the surveyor making the survey by the municipality making the application therefor upon notice in writing by the Minister to the municipality that the survey has been made, and the municipality may levy all or any part of such cost on the landowners affected by the survey in proportion to the benefit received as determined by by-law of the municipality and collect the same as taxes. R.S.O. 1970, c. 453, s. 48.

Cost of  
survey

**49.—**(1) Any person objecting to the confirmation of a survey under subsection 48 (2) may appeal to the Divisional Court and the court may decide the matter on the evidence before it or direct the trial of an issue and may dismiss the appeal or order the Minister to amend the survey and plan in such manner as the court considers proper.

Appeal  
from  
confirmation

(2) Notice of an appeal under this section shall be served on the Minister within thirty days of the date of the confirmation by the Minister of the survey.

Notice of  
appeal



Filing of  
plans and  
field notes

(3) Upon the expiry of thirty days from the confirmation of a survey by the Minister or where an appeal has been taken under subsection (1) within thirty days of the final disposition of the appeal, a copy of the plan and field notes of the survey or of the survey as amended in accordance with the order of the court, as the case may be, shall be registered by the Minister with the proper land registrar and a copy thereof shall be filed with the clerk of the municipality that made the application under subsection 48 (1). R.S.O. 1970, c. 453, s. 49.

Application  
for survey in  
unorganized  
territory

R.S.O. 1980,  
cc. 230, 445

**50.**—(1) The Minister upon the application of an owner or owners of land that is situate in territory without municipal organization and that has been surveyed under competent authority or under the *Land Titles Act* or the *Registry Act* may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner.

Cost of  
survey

(2) Subject to section 51, the cost of a survey under subsection (1) shall be paid by the owner or owners making application therefor upon notice by the Minister that the survey has been made.

Confirmation  
of survey

(3) Subsection 48 (2) and section 49 apply with necessary modifications to a survey made under this section. R.S.O. 1970, c. 453, s. 50.

Cost of  
survey  
may be  
paid by  
Province

**51.** The Minister may pay all or any part of the cost of a survey under section 48 or 50 out of the moneys that are appropriated by the Legislature for ground surveys. R.S.O. 1970, c. 453, s. 51.

Crown  
resurvey

**52.**—(1) The Minister may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner that was surveyed under competent authority, and in any such case the Minister may direct that subsection 48 (2) and section 49 apply with necessary modifications.

Confirmation  
of Crown  
resurveys

(2) Where a survey similar to a survey under subsection (1) was made under the instructions of the Minister before the 1st day of June, 1947, the Minister may, upon compliance with the requirements as to publication of notice and the holding of a hearing set forth in subsection 48 (2), confirm the survey and such confirmation has the like force and effect as a confirmation under the said subsection. R.S.O. 1970, c. 453, s. 52.

## PART IX

## PLANS OF SUBDIVISION

**53.** In this Part, "plan of subdivision" means a plan of subdivision that is registered under the *Land Titles Act* or under the *Registry Act*. R.S.O. 1970, c. 453, s. 53.

Interpretation  
R.S.O. 1980,  
cc. 230, 445

**54.** Every line, boundary and corner established by survey and shown on a plan of subdivision is a true and unalterable line, boundary or corner, as the case may be, with respect to such plan and shall be deemed to be defined by the original posts or blazed trees in the first survey thereof, whether or not the actual measurements between the original posts are the same as shown on the plan of subdivision or expressed in any grant or other instrument. R.S.O. 1970, c. 453, s. 54.

True and unalterable line, boundary and corner

**55.** A surveyor in re-establishing a line, boundary or corner shown on a plan of subdivision shall obtain the best evidence available respecting the line, boundary or corner, but if the line, boundary or corner cannot be re-established in its original position from such evidence, he shall proceed as follows:

Re-establishment of lost corners, etc.

1. If a part of a line or boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner shown on the plan of subdivision.
2. If a corner on a line or boundary is lost, he shall re-establish it by the method that accords with the intent of the survey as shown on the plan of subdivision and, if it is consistent with the intent of the survey as shown on the plan of subdivision, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as shown on the plan of subdivision having due regard for any road allowance, highway, street, lane, walk or common shown on the plan of subdivision. R.S.O. 1970, c. 453, s. 55.

**56.** Every bearing shown on a plan of subdivision shall be referred to one reference line designated on the plan and the course of such reference line shall be the true bearing and shall be determined by astronomic observation or other satisfactory method. R.S.O. 1970, c. 453, s. 56.

Bearings

Public  
roads, etc.  
R.S.O. 1980,  
cc. 230, 445

**57.**—(1) Subject to the *Land Titles Act* or the *Registry Act* as to the amendment or alteration of plans, every road allowance, highway, street, lane, walk and common shown on a plan of subdivision shall be deemed to be a public road, highway, street, lane, walk and common, respectively.

Road  
allowance  
closed

(2) Where under subsection (1) a road allowance, highway, street, lane or walk in a municipality is a public highway but the municipality has not assumed it for public use and it or any part of it is closed by an alteration of the plan under the *Land Titles Act*, the *Registry Act* or other provision in that behalf, it or the part of it so closed belongs to the owners of the land abutting thereon.

Different  
owners

(3) Where several parcels of land having different owners abut on the road allowance, highway, street, lane or walk or the part thereof so closed, the owner of each parcel is entitled to the part so closed on which his land abuts to the middle line of the road allowance, highway, street, lane or walk or the part thereof so closed.

Where  
public way  
abuts

(4) Where a part of the road allowance, highway, street, lane or walk so closed is abutted on one side by another road allowance, highway, street, lane or walk or by a stream, river or other body of water over which the public have rights of navigation or of floating timber, the whole width of such part belongs to the owners whose lands abut thereon opposite the road allowance, highway, street, lane, walk, stream, river or other body of water. R.S.O. 1970, c. 453, s. 57 (1-4).

Less than  
whole width

(5) Where a part of a road allowance, highway, street, lane or walk so closed does not include the whole width thereof, the whole width of such closed part belongs to the owners whose lands abut thereon. 1971, c. 53, s. 3 (1).

Side lines

(6) The division line between two parcels of land having different owners produced to the middle line of the road allowance, highway, street, lane or walk so closed or across the same in cases coming within subsection (4) or (5) is the division line between the parts so closed to which the owners of the parcels are respectively entitled. 1971, c. 53, s. 3 (2).

Several  
owners

(7) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is owned by more than one person, each such owner is entitled to the like estate or interest in the part so closed as he has in the parcel abutting thereon.

(8) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is encumbered, the encumbrance extends to and includes the part thereof to which the owner of such parcel becomes entitled under this section. Where  
parcel  
encumbered

(9) Where a road allowance, highway, street, lane or walk is so closed, the municipality in which the same was vested shall execute a conveyance to each owner of the part that belongs to him under this section, and the municipality shall register the conveyance in the proper land registry office and shall bear the cost of preparing and registering it. R.S.O. 1970, c. 453, s. 57 (6-8). Duty to  
convey

## PART X

### SURVEYS OF LAND UNDER THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

**58.** All posts and monuments heretofore or hereafter marked, placed or planted for the purpose of designating and defining the boundaries of any parcel of land vested in the Crown and under the jurisdiction and control of the Ministry of Transportation and Communications under the *Public Transportation and Highway Improvement Act* or a predecessor thereof are true and unalterable and fix the boundaries of such parcel, whether or not the actual measurements between the posts or monuments are the same as shown on the plan thereof or mentioned or expressed in any grant or other instrument in respect of such parcel and whether or not such parcel remains vested in the Crown. R.S.O. 1970, c. 453, s. 58; 1971, c. 61, s. 1; 1972, c. 1, s. 100 (2). True and  
unalterable  
boundaries  
  
R.S.O. 1980,  
c. 421

## PART XI

### MISCELLANEOUS

**59.** The aliquot part of a parcel of land that is not an aliquot part of a township lot is the aliquot part of the area of the parcel of land whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. R.S.O. 1970, c. 453, s. 59. Aliquot  
parts of  
parcels

**60.** The plan of a survey of land shall show the position, type and form of every survey monument or object used to define a point placed, planted, set or marked in the survey. R.S.O. 1970, c. 453, s. 60. Survey  
monuments,  
etc.



- Agreements**      **61.**—(1) The Minister or the Minister of Government Services may enter into agreements with the owners of lands respecting the installation of survey monuments on the lands.
- Term of agreement**      (2) An agreement entered into under subsection (1) may be entered into for a term of years mentioned in the agreement or in perpetuity.
- Execution of agreements**      (3) Without limiting the generality of any provision of any Act or any assignment made thereunder, the Surveyor General may execute an agreement entered into under subsection (1) on behalf of the Minister or the Minister of Government Services.
- Registration of agreements**      (4) An agreement entered into under subsection (1) may be registered in the proper land registry office, and thereupon such agreement is binding upon every subsequent owner and mortgagee of the lands during the term of the agreement.
- Agreements**      (5) The Minister and the Crown in right of Canada or any province of Canada, any agency of any of them or any municipality, metropolitan municipality, regional municipality or district municipality may enter into an agreement with respect to the performance of co-ordinate surveys and the installation and maintenance of monuments. 1972, c. 30, s. 6.
- Regulations**      **62.**—(1) The Lieutenant Governor in Council may make regulations,
- (a) prescribing the methods of performing surveys and for the purpose of illustrating any method by words and sketches, or either of them;
  - (b) establishing, governing and regulating systems of co-ordinate surveys;
  - (c) prescribing the kind and form of monuments used to identify points in surveys and prescribing how and where they are to be used and how they are to be designated on plans of survey. R.S.O. 1970, c. 453, s. 62; 1971, c. 50, s. 81 (2).
- Regulation may be limited**      (2) Any regulation may be limited territorially or as to time or otherwise. 1971, c. 53, s. 4.

## CHAPTER 494

## Teachers' Superannuation Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) "actuary" means a Fellow of the Canadian Institute of Actuaries;
- (b) "board" means a public school board, separate school board, secondary school board or board of education;
- (c) "Commission" means the Teachers' Superannuation Commission;
- (d) "employed" means engaged for any period,
  - (i) as a teacher in an elementary school or a secondary school,
  - (ii) as a teacher in a school or class designated by the regulations,
  - (iii) as a teacher in a school outside Ontario under a teachers' exchange system authorized by the Minister,
  - (iv) as a teacher in a school or class that is maintained by the Government of Canada or the Government of Ontario, or both, for the instruction of members or former members of the Canadian Forces and that is designated by the regulations, where the teacher has elected to come under this Act,
  - (v) as a teacher by the minister of a ministry of the Government of Ontario,
  - (vi) as a teacher in Elliot Lake Centre for Continuing Education, Moosonee Education Centre, the Institute of Child Study, the University of Toronto Schools, the Ontario College of Art, the Royal Ontario Museum,

Ryerson Polytechnical Institute, St. John's Training School for Boys, Uxbridge, or St. Joseph's Training School for Boys, Alfred,

R.S.O. 1980,  
c. 418

(vii) as a teacher in the civil service as defined in the *Public Service Act*,

R.S.C. 1970,  
c. A-2

(viii) as a co-ordinator or instructor under any agreement entered into under the *Adult Occupational Training Act* (Canada),

(ix) as a full time employee by a board or in the Ministry,

(x) as an officer of an association or body of teachers engaged in advancing the interests of education and designated by the regulations,

(xi) as an officer of an association or body of boards or of trustees and ratepayers engaged in advancing the interests of education and designated by the regulations,

(xii) by the Minister or a board in any capacity designated by the regulations,

(xiii) by any organization and in any capacity designated by the regulations,

but no person shall be deemed to be employed who,

R.S.O. 1980,  
c. 129

(xiv) is not qualified as a teacher under the *Education Act* and the regulations under that Act,

(xv) is regularly engaged outside Ontario and who is performing services in Ontario under a teachers' exchange system approved by the Minister, or

(xvi) is a contributor to a fund to which the Crown contributes except the Teachers' Superannuation Fund;

(e) "Fund" means the Teachers' Superannuation Fund;

(f) "Minister" means the Minister of Education;

(g) "Ministry" means the Ministry of Education;

(h) "regulations" means the regulations made under this Act;

(i) "Treasurer" means the Treasurer of Ontario. R.S.O. 1970, c. 455, s. 1; 1971 (2nd Sess.), c. 9, s. 1; 1972, c. 1, ss. 1, 2, 65; 1975, c. 85, s. 1, *revised*.

(2) Every person,

Interpre-  
tation of  
"qualified as  
a teacher"

(a) to whom the Minister has granted a certificate of qualification or a letter of standing; or

(b) in respect of whom the Minister has granted a letter of permission to a board,

shall be deemed to be qualified as a teacher for the purposes of this Act so long as his certificate or letter of standing, or the letter of permission granted in respect of him, remains valid. 1973, c. 36, s. 1.

**2.—**(1) The Teachers' Superannuation Commission is continued. Commission;

(2) The Commission shall be composed of,

composition

(a) six persons who shall be appointed by the Minister; and

(b) five contributors to the Fund who shall be elected by ballot by the contributors to the Fund who are members of the teachers' organizations designated by the regulations.

(3) The Minister shall designate triennially one of the members as chairman. chairman

(4) When a vacancy occurs among the members, another member shall be appointed by the Minister or by the governing body of the teachers' organization concerned, as the case may be, so soon as is practicable after the vacancy occurs, and the person so appointed shall hold office for the unexpired portion of the term of the member he replaces. vacancies

(5) Each member is eligible for reappointment or re-election, as the case may be. re-election, etc.



term of  
office

(6) Each member shall hold office for three years and until his successor is appointed or elected. R.S.O. 1970, c. 455, s. 2 (1-6).

meetings

(7) The Commission shall meet in the offices of the Commission at such times as the Commission may determine. 1973, c. 36, s. 2.

quorum

(8) Eight members constitute a quorum. R.S.O. 1970, c. 455, s. 2 (8).

Acquisition  
and  
disposition  
of property

**3.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may,

(a) in its own name acquire by purchase, lease or otherwise and hold any real property or any interest therein necessary for its actual use and occupation; and

(b) when no longer so necessary, sell or otherwise dispose of any of such property and pay the proceeds thereof into the Fund.

Expenditures  
re property

(2) Any expenditure incurred by the Commission in connection with any property acquired under subsection (1) shall be deemed to be an administration expense.

Rights of  
property

(3) The Commission may in its own name contract and be contracted with and sue and be sued in respect of any property or any interest therein acquired under subsection (1).

Commission  
a Crown  
agency for  
purposes of  
R.S.O. 1980,  
cc. 106, 261  
Execution  
of formal  
documents

(4) The Commission shall be deemed to be a Crown agency to which the *Crown Agency Act* applies for the purposes of the *Mechanics' Lien Act*. 1971 (2nd Sess.), c. 9, s. 3, *part, revised*.

**4.** Where any document is required to be executed by the Commission, it is sufficient if the document is signed in the name of the Commission by any two of,

(a) the chairman of the Commission;

(b) a member of the Commission designated by the Commission for the purpose;

(c) the director of the Commission. 1971 (2nd Sess.), c. 9, s. 3, *part*.

Explanation  
of Act

**5.** The Commission shall continue to provide to each contributor to the Fund the explanations required to be provided to

contributors to the Fund by the *Pension Benefits Act*. 1971 (2nd Sess.), c. 9, s. 3, *part*. R.S.O. 1980,  
c. 373

**6.** It is the duty of the Commission to administer this Act and in so doing it shall determine the right of every applicant to receive an allowance or a refund and the amount thereof. R.S.O. 1970, c. 455, s. 3. Duties  
and powers

**7.—(1)** Subject to the approval of the Lieutenant Governor in Council, the Commission may, Officers,  
staff, etc.

(a) establish job classifications, salary ranges and the terms and conditions of employment for its employees; and

(b) appoint a director, an actuary, a solicitor, a medical referee and such other employees as are considered proper.

(2) The employees of the Commission shall be paid out of the Fund. Salaries

(3) The *Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 28 of that Act. R.S.O. 1970, c. 455, s. 4. R.S.O. 1980,  
c. 419,  
applicable

**8.—(1)** The Teachers' Superannuation Fund is continued. Fund

(2) The Treasurer is the custodian of the Fund. Custodian  
of Fund

(3) The actuary of the Commission shall make an actuarial valuation of the Fund as of the 31st day of December, 1972 and of each third year thereafter, but the Minister may direct him to make additional actuarial valuations of the Fund at any time. R.S.O. 1970, c. 455, s. 5. Actuarial  
valuation

**9.** The Commission may receive any gift, devise or bequest made to or for the purposes of the Fund and shall pay it or the proceeds thereof into the Fund to be applied as directed by the donor, and, if so directed, in additional benefits to those provided by this Act or, in the absence of such a direction, to the general purposes of the Fund. R.S.O. 1970, c. 455, s. 6. Receiving  
gifts, etc.,  
for Fund

**10.—(1)** The issue by the Treasurer of Ontario Government stock in the sum of \$31,200,000, dated the 1st day of November, 1942, bearing interest at the rate of  $4\frac{3}{4}$  per cent per year payable half-yearly, and maturing on the 1st day of Interest on  
1942 issue  
increased

November, 1982, shall be withdrawn and replaced by the issue by the Treasurer of a Province of Ontario debenture in the sum of \$31,200,000, dated the 1st day of May, 1971, bearing interest at the rate of 6 per cent per year payable half-yearly, and maturing on the 1st day of November, 1982.

Interest on  
1952 issue  
increased

(2) The issue by the Treasurer of Ontario Government stock in the sum of \$43,000,000, dated the 1st day of November, 1952, bearing interest at the rate of  $4\frac{1}{2}$  per cent per year payable half-yearly, and maturing on the 1st day of November, 1992, shall be withdrawn and replaced by the issue by the Treasurer of a Province of Ontario debenture in the sum of \$43,000,000, dated the 1st day of May, 1971, bearing interest at the rate of 6 per cent per year payable half-yearly, and maturing on the 1st day of November, 1982.

Interest on  
1962 issue  
increased

(3) The issue by the Treasurer of Ontario Government stock in the sum of \$176,000,000, dated the 1st day of November, 1962, bearing interest at the rate of  $4\frac{1}{2}$  per cent per year payable half-yearly, and maturing on the 1st day of November, 2002, shall be withdrawn and replaced by the issue by the Treasurer of a Province of Ontario debenture in the sum of \$176,000,000, dated the 1st day of May, 1971, bearing interest at the rate of 6 per cent per year payable half-yearly, and maturing on the 1st day of November, 1987.

Interest on  
stock issued  
1962-71  
increased

(4) The issue by the Treasurer of Ontario Government stock in the sum of \$454,500,000, bearing interest at the rate of 5 per cent per year payable half-yearly, and maturing on the 1st day of November, 1972, is withdrawn and replaced by the issue by the Treasurer of a Province of Ontario debenture in the sum of \$454,500,000, dated the 1st day of May, 1971, bearing interest at the rate of 6 per cent per year payable half-yearly, and maturing on the 1st day of November, 1992.

Future issues

(5) The Treasurer shall issue from time to time a Province of Ontario debenture in the amount, as determined by the Commission, of surplus funds accumulated in the Fund and not required for current expenditures, such debenture to be for a term of not more than twenty-five years and not less than twenty years and to bear interest payable half-yearly at a rate of interest not less than the weighted average yield to maturity of long term securities issued or guaranteed by the Province payable in Canadian dollars and sold to the public during the Province of Ontario fiscal year next preceding the date of the debenture.

Interest  
and term

(6) For the purposes of subsection (5), the rate of interest and the term of the debenture shall be as agreed upon

between the Treasurer and the Commission and approved by the Lieutenant Governor in Council.

(7) The Province of Ontario debentures issued under this section are a charge upon the Consolidated Revenue Fund. 1971 (2nd Sess.), c. 9, s. 4, *part*. Charge on Consolidated Revenue Fund

**11.**—(1) All securities belonging to the Fund shall be deposited with the Treasurer. Deposit of securities

(2) The Treasurer is responsible for the safekeeping of all securities deposited with him under subsection (1). 1971 (2nd Sess.), c. 9, s. 4, *part*. Safekeeping of securities

**12.** When the payments into the Fund in any year are insufficient to make the required payments out of the Fund, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1970, c. 455, s. 8. Deficiency

**13.** Accounts shall be kept in which shall be entered all assets and liabilities and payments into and disbursements out of the Fund. R.S.O. 1970, c. 455, s. 9. Accounts

**14.** The period from the 1st day of January to the 31st day of December constitutes the fiscal year of the Commission. 1975, c. 85, s. 2, *revised*. Fiscal year

**15.** Except where otherwise specifically provided by this Act, Interest

(a) interest payable under this Act or the regulations shall be at the rate of 6 per cent per year, compounded half-yearly; and

(b) interest is payable on any payment into or out of the Fund, other than an allowance, that is six months or more in arrear. R.S.O. 1970, c. 455, s. 11; 1971 (2nd Sess.), c. 9, s. 5.

**16.**—(1) The accounts of the Fund shall be audited and the securities in which the moneys of the Fund may be invested shall be examined and checked in each year by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council appoints, and the auditor shall make an annual report, and prepare and furnish such other statements as the Treasurer may require. Audit

(2) The cost of such audits and reports shall be paid by the Commission out of the Fund. R.S.O. 1970, c. 455, s. 12. Costs and expenses of audit



Annual  
report

**17.**—(1) The Commission shall annually, after the close of its fiscal year, file with the Minister a report upon the affairs of the Commission.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1979, c. 455, s. 13.

Payments  
into Fund

**18.** An account shall be kept in a chartered bank of Canada in the name of the Treasurer as custodian of the Fund, and every amount received as a payment into the Fund shall be deposited to the credit of such account. R.S.O. 1970, c. 455, s. 14.

Payments  
out of  
Fund

**19.**—(1) Every allowance, every refund, and the expenses of the administration of this Act, are payable out of the Fund.

How  
payments out  
to be made

(2) Every payment out of the Fund shall be made,

(a) by cheque of the Commission signed by; or

(b) by a direct transfer into the payee's account in a chartered bank or other institution entitled to receive money on deposit, pursuant to an arrangement authorized by the signatures of,

any two of, the chairman of the Commission, a member of the Commission designated by the Commission for the purpose, or the director of the Commission, and any such signature may be affixed in facsimile by use of a rubber stamp or by printing, lithographing, engraving or other means.

Days of  
employment  
to be  
reported

(3) The recipient of an allowance shall report, as required by the Commission, the number of days, if any, that he was employed, and the Commission may direct that no further allowance be paid him until he provides such report to the Commission. 1971 (2nd Sess.), c. 9, s. 6.

Bank  
loans

**20.**—(1) The Treasurer, as custodian of the Fund, may, at the request of the Minister, arrange for a chartered bank of Canada to advance to the Fund, by way of overdraft or otherwise, any amount required temporarily to provide for payments out of the Fund and may furnish securities of the Commission as security therefor, and every such advance shall be repaid within one year out of interest or contributions to the Fund, or both.

Short-term  
investments

(2) The Treasurer, as custodian of the Fund, may at the request of the Minister, when both the Treasurer and the

Minister consider it advisable for the sound and efficient management of the Fund, invest any part of the Fund for any period not exceeding twelve months in any securities in which the Treasurer may invest the public moneys of Ontario. R.S.O. 1970, c. 455, s. 16.

**21.**—(1) Any school, college, academy or other educational institution, <sup>Designated private schools</sup>

- (a) that is giving instruction equivalent to that given in elementary or secondary schools in Ontario;
- (b) that is not operated for personal profit or gain and where the profits, if any, are used to develop its objects;
- (c) that is not supported in any way by school taxes or by provincial or municipal grants; and
- (d) whose governing body has undertaken in writing,
  - (i) to make such annual reports to the Commission as the Commission may require and to supply such information as to its constitution, operations, teaching staff and otherwise as the Commission may require, and
  - (ii) to pay monthly to the Commission a sum equal to the sum required to be paid under section 25 for those persons on its teaching staff who are contributors to the Fund under this section together with a sum calculated thereon at a rate equal to the rate of the contributions made from time to time to the Fund by the Province under section 26,

may be designated by the Lieutenant Governor in Council as a private school for the purposes of this Act, effective on the 1st day of September next following the designation, and thereupon this Act and the regulations apply to such designated private school as if it were specifically named in subclause 1 (d) (vi). R.S.O. 1970, c. 455, s. 17 (1); 1971 (2nd Sess.), c. 9, s. 7.

(2) Where a person on the teaching staff of a designated private school who is contributing to the Fund receives, in addition to his salary, any board, lodging or other perquisite, his salary shall, for the purposes of this Act, be determined by the Commission, regard being had to the value of the <sup>Determination of salary</sup>

board, lodging or other perquisite. R.S.O. 1970, c. 455, s. 17 (2).

What  
teaching  
service may  
count

R.S.O. 1980,  
c. 129

(3) Subject to the right of a person to establish credit in the Fund in respect of war service under subsection (6), a person may establish credit in the Fund under this section only in respect of teaching service rendered while qualified as a teacher under the *Education Act* and the regulations under that Act and only in respect of teaching service equivalent to that given in elementary or secondary schools in Ontario. R.S.O. 1970, c. 455, s. 17 (3); 1972, c. 1, s. 1.

Who must  
contribute  
for current  
service

(4) Subject to subsection (3) and except as provided in subsection (5), every person on the teaching staff of a designated private school shall be deemed to be employed within the meaning of this Act. R.S.O. 1970, c. 455, s. 17 (4).

Exceptions

(5) Every person,

(a) who was qualified as a teacher under the *Education Act* and the regulations under that Act and who was on the teaching staff of a designated private school at the time the designation became effective; or

(b) who was not qualified as a teacher under the *Education Act* and the regulations under that Act and who was on the teaching staff of a designated private school at the time the designation became effective and who became so qualified after the designation became effective,

may, by notice in writing to the governing body of the school and to the Commission, given within three months after the designation became effective if under clause (a) or within three months after becoming qualified if under clause (b), exclude himself from the benefits and obligations of this Act during the time that he is on the teaching staff of a designated private school. R.S.O. 1970, c. 455, s. 17 (5); 1972, c. 1, s. 1.

Establish-  
ment of  
credit for  
past service

(6) Every person who comes within subsection (4) may establish credit in the Fund in respect of past teaching service in any designated private school in accordance with the regulations or in any other school to which this Act applies in accordance with section 54, or in respect of war service in accordance with the regulations.

Termina-  
tion of  
designation

(7) The Lieutenant Governor in Council may terminate the designation of a designated private school effective on

the 31st day of August next following, and thereupon the persons on the teaching staff of that school who contributed to the Fund shall, for the purposes of this Act, be deemed to have withdrawn from the profession. R.S.O. 1970, c. 455, s. 17 (6, 7).

**22.** Every person,

Special  
U. of T.  
group

- (a) who was a contributor to the University of Toronto Pension Fund;
- (b) who has transferred or transfers to the Fund;
- (c) who has credit in the Fund for a period of ten or more years of service; and
- (d) who had or has credit in the University of Toronto Pension Fund for a period which, if that period and the period mentioned in clause (c) had both been served under this Act, would have entitled him to a superannuation allowance under this Act,

is entitled to a superannuation allowance calculated on the basis of his average salary for the seven years during which his salary was highest and for which he contributed to the Fund and bearing the same ratio to the allowance to which he would have been entitled if he had contributed to the Fund for the period for which he contributed to the University of Toronto Pension Fund as the number of his years of contribution to the Fund bears to the number, not exceeding thirty-five, of his years of contribution to the Fund and the University of Toronto Pension Fund. R.S.O. 1970, c. 455, s. 18.

**23.**—(1) Every person who joins the staff of a college of education and who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the university of which the college is a part, elect to contribute to the Fund or to the pension fund of the university.

O.C.E. staff,  
election as  
to Fund

(2) Every person on the staff of The Ontario Institute for Studies in Education who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the Institute, elect to contribute to the Fund or to the pension fund of the Institute.

O.I.S.E.  
staff,  
election as  
to Fund

(3) Notwithstanding section 18 of *The Lakehead University Act, 1965*, every person on the staff of Lakehead

Lakehead  
University  
1965, c. 54



University who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the University, elect to contribute to the Fund or to the pension fund of the University. R.S.O. 1970, c. 455, s. 19 (1-3).

Teachers'  
colleges

(4) Every person on the staff of a teachers' college who is eligible to contribute to the Fund shall, within three months after the teachers' college becomes part of a university or within three months after joining such staff, whichever is the later, by notice in writing to the Commission and to the college, elect to contribute to the Fund or to the pension fund of the university of which the college is a part. R.S.O. 1970, c. 455, s. 19 (5).

No other  
election

(5) A person to whom subsection (1), (2), (3) or (4) applies shall not have any other right of election and, if he fails to exercise his right of election thereunder, he shall be deemed to have elected to contribute to the Fund. R.S.O. 1970, c. 455, s. 19 (6); 1971 (2nd Sess.), c. 9, s. 8 (2).

Effect of  
election

(6) A person who elects or is deemed to have elected under this section, or who elected or is deemed to have elected under a predecessor of this section, to contribute to the Fund, shall be deemed to be employed as if the institution in which he is employed were named in subclause 1 (d) (vi). 1971 (2nd Sess.), c. 9, s. 8 (3).

Contributions

**24.**—(1) Every person who is employed and who contributes to the Canada Pension Plan shall contribute to the Fund from his salary for the calendar year,

R.S.C. 1970,  
c. C-5

(a) 6 per cent of the part thereof which is below the year's basic exemption as prescribed by the *Canada Pension Plan*;

(b) 4.2 per cent of the part thereof which is between the year's basic exemption and the year's maximum pensionable earnings as prescribed by the *Canada Pension Plan*; and

(c) 6 per cent of the part thereof which is in excess of the year's maximum pensionable earnings.

Idem

(2) Every person who is employed and who does not contribute to the Canada Pension Plan shall contribute to the Fund 6 per cent of his salary. R.S.O. 1970, c. 455, s. 20 (1, 2).

(3) Where the annual rate of salary is less than \$5,000, it shall, <sup>Salaries under \$5,000</sup> for the purposes of this section be deemed to be at the annual rate of \$5,000. 1971 (2nd Sess.), c. 9, s. 9.

(4) In this section, "salary" means salary in accordance with the terms and conditions under which the person is employed, and includes a cost of living or other similar bonus but does not include any additional remuneration for extra services. 1975, c. 85, s. 3. <sup>Interpretation</sup>

(5) Where a person receives part of his salary in respect of employment of a type prescribed in subclause 1 (d) (i) to (xiii) and part of his salary in respect of other employment, for the purposes of this Act, <sup>Salary from different sources</sup>

(a) his salary shall be deemed to be only the amount of the salary that he receives in respect of such prescribed employment; and

(b) he shall be given credit for only that portion of each school year that bears the same proportion to the school year as the portion of his salary that he receives in respect of such prescribed employment bears to his total salary for such year. R.S.O. 1970, c. 455, s. 20 (4).

**25.—**(1) Contributions shall be deducted by the board or other authority employing the person from each payment of his salary and shall be forwarded to the Commission on or before the fifteenth day of the month following the month in which the payment was made. <sup>Payment of contributions</sup>

(2) Notwithstanding clause 15 (b), interest shall be payable by the board or other authority on any sum in arrears under subsection (1). <sup>Interest</sup>

(3) Every board and other authority shall report to the Commission from time to time as required by the Commission, but not more often than once a month, as to the contributions deducted. <sup>Report of contributions</sup>

(4) In the case of a person who is a contributor to the Fund and whose salary is paid by the Government of Ontario, the amount payable by him shall be retained out of his salary and placed to the credit of the Fund. <sup>Special cases</sup>

(5) A person who,

(a) ceases to be employed or is granted leave of absence from his employment without salary for any

<sup>When contributions may be made directly</sup>

purpose and for a period permitted by the regulations; or

- (b) is employed by a board that refuses or neglects to comply with subsection (1) or that by reason of non-compliance with any statute or regulation is not entitled to share in the legislative grant for the schools under its jurisdiction,

may contribute to the Fund on such terms and conditions and at such times as the regulations prescribe.

Error in  
tendering  
contribution

(6) Any contribution, except when made under clause (5) (a), that through error has not been received in the regular way and at the customary time may be subsequently accepted by the Commission. R.S.O. 1970, c. 455, s. 21.

Contributions  
to Super-  
annuation  
Adjustment  
Fund  
R.S.O. 1980,  
c. 490

(7) Where a person is employed and contributes to the Superannuation Adjustment Fund under the *Superannuation Adjustment Benefits Act*, the contribution shall be deducted by the board or other authority employing the person from each payment of his salary. 1975, c. 85, s. 4.

Contributions  
by Province

**26.**—(1) Annually and at the same time as the total legislative grant is payable to the board or other authority, the Treasurer shall place to the credit of the Fund a sum equal to the contributions made by or on behalf of the persons to whom this Act or the regulations apply. R.S.O. 1970, c. 455, s. 22 (1).

Exceptions

(2) Subsection (1) does not apply,

(a) in the case of persons employed within the meaning of subclause 1 (d) (vi), (x), (xi) or (xiii), but the respective organizations employing such persons shall pay monthly to the Commission a sum equal to the sum that would otherwise be credited to the Fund by the Treasurer under subsection (1) in respect of such persons; or

(b) in the case of persons who under the regulations are themselves required to pay a sum in lieu of the sum that would otherwise be paid by the Treasurer under subsection (1). R.S.O. 1970, c. 455, s. 22 (2); 1971 (2nd Sess.), c. 9, s. 10.

Employer  
for  
purposes of  
R.S.O. 1980,  
c. 490

(3) The person required to make payment to the Fund under subsection (1) or (2) shall be deemed to be the employer of the contributor to the Fund for the purpose of the contributions to be made by the employer under the *Superannuation Adjustment Benefits Act*. 1975, c. 85, s. 5.

**27.** All sums placed to the credit of the Fund during a fiscal year under section 26 shall be deemed to have been credited as of the 1st day of June in the preceding fiscal year, and the Treasurer shall pay interest thereon for the period between that day and the last day of the fiscal year in which the sums were actually received. R.S.O. 1970, c. 455, s. 23.

**28.**—(1) Every person who,

- (a) has credit in the Fund for thirty-five or more years of service;
- (b) is sixty-two or more years of age; and
- (c) ceased to be employed on or before the 30th day of November, 1971,

Retirement  
at 62 after  
35 years  
service, "A"  
pension

is entitled to an annual superannuation allowance during his lifetime. 1971 (2nd Sess.), c. 9, s. 11, *part*.

(2) Every person who,

- (a) has ceased to be employed after the 30th day of November, 1971; and
- (b) has credit in the Fund for a number of years of service that, when added to his age on the date that he ceased to be employed, totals at least ninety years,

Retirement  
where sum  
of years of  
service and  
age equal 90

is entitled to an annual superannuation allowance during his lifetime. 1971 (2nd Sess.), c. 9, s. 11, *part*; 1973, c. 36, s. 4.

**29.**—(1) The amount of the annual superannuation allowance under section 28 shall be computed by multiplying an amount equal to 2 per cent of his average salary for the seven years during which his salary was highest by the number of years, not exceeding thirty-five, for which he has credit in the Fund, reduced by an amount equal to 0.7 per cent of such average salary for each year of credit in the Fund after the year 1965, but such reduction shall not be computed upon the amount, if any, that such average salary exceeds the year's maximum pensionable earnings under the *Canada Pension Plan* established at the time he ceased to be employed. R.S.O. 1970, c. 455, s. 25 (1); 1971 (2nd Sess.), c. 9, s. 12 (1).

(2) In this section, "salary" for any year means the salary used in calculating the person's contribution to the Fund for such year. 1971 (2nd Sess.), c. 9, s. 12 (2).

Interpre-  
tation



Idem (3) Where the person ceased to be employed before attaining the age at which he could become eligible for a benefit under the *Canada Pension Plan*, the reduction mentioned in subsection (1) does not apply until the first day of the month following the month in which he attains such age.

Idem (4) Where the person ceased to be employed before the year 1967, the reduction mentioned in subsection (1) does not apply.

Idem (5) Where the person did not contribute to the Canada Pension Plan, the reduction mentioned in subsection (1) does not apply.

Computation (6) For the purpose of computing the amount of such allowance,

(a) each school year for which his contributions are in the Fund at the time of his application for an allowance counts as a school year of credit;

(b) each school year for which he was employed before the 1st day of April, 1917, counts as one-half school year of credit; and

(c) each school year for which he made contributions to the Public Service Superannuation Fund, which contributions are in the Fund at the time of his application for an allowance, counts as a school year of credit. R.S.O. 1970, c. 455, s. 25 (2-5).

Retirement  
after 40 years  
service, "A"  
pension

**30.**—(1) Every person who,

(a) has credit in the Fund for forty or more years of service; and

(b) ceased to be employed on or before the 30th day of November, 1971,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1970, c. 455, s. 26 (1); 1971 (2nd Sess.), c. 9, s. 13 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by section 29. R.S.O. 1970, c. 455, s. 26 (2); 1971 (2nd Sess.), c. 9, s. 13 (2).

Retirement  
after 30 years  
service, "B"  
pension

**31.**—(1) Every person who,

(a) has credit in the Fund for thirty or more years of service; and

(b) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1970, c. 455, s. 27 (1).

(2) The amount of such allowance shall be computed <sup>Amount</sup> in the manner prescribed by section 29, but shall be further reduced or reduced, as the case may be,

(a) in the case of a person who has attained the age of sixty-one years but has not attained the age of sixty-five years at the beginning of the month following the month during which he ceased to be employed, by 5 per cent; or

(b) in the case of a person who has not attained the age of sixty-one years at the beginning of the month following the month during which he ceased to be employed, at the rate of 5 per cent in respect of each year by which he is less than sixty-two years of age at the beginning of the month in which his pension is to commence. R.S.O. 1970, c. 455, s. 27 (2); 1971 (2nd Sess.), c. 9, s. 14 (1).

(3) Notwithstanding section 43, where a person ceased to be employed before attaining the age of fifty-five years, an allowance under this section shall commence <sup>Commence-</sup> on the first day of the month following the month in which the person entitled thereto attains the age of fifty-five years. R.S.O. 1970, c. 455, s. 27 (4).

**32.—**(1) Every person who,

<sup>Deferred  
pension</sup>

(a) has credit in the Fund for ten or more years of service; and

(b) has ceased to be employed after the calendar year in which he attained forty-four years of age,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1970, c. 455, s. 28 (1); 1975, c. 85, s. 6 (1).

(2) The amount of such allowance shall be computed <sup>Amount</sup> in the manner prescribed by section 29. R.S.O. 1970, c. 455, s. 28 (2); 1971 (2nd Sess.), c. 9, s. 15.

(3) Notwithstanding section 43, an allowance under this section shall commence <sup>Commence-</sup> as of the first day of the month following the month in which the person entitled thereto attains the age of sixty-five years, or, where he is employed in the month in which he attains the age of sixty-five years, then on the first day of the month following the month in which he ceased to be employed. R.S.O. 1970, c. 455, s. 28 (3); 1975, c. 85, s. 6 (2).

(4) Notwithstanding subsection (3), a person entitled to <sup>Idem</sup> an allowance under this section may elect to have the

allowance commence on the first day of any month after he has attained the age of fifty-five years so long as he is not employed at that time, and in such case the amount of the allowance shall be further reduced or reduced, as the case may be, at the rate of 5 per cent in respect of each year by which his age is less than sixty-five years at the time his allowance commences.

Time of  
payment

(5) Notwithstanding section 42, an allowance under this section may be paid, in the discretion of the Commission, in a lump sum annually, or in semi-annual, quarterly or monthly instalments. R.S.O. 1970, c. 455, s. 28 (4, 5).

Deferred  
pension  
option

(6) Every person who,

(a) has credit in the Fund for ten or more years of service; and

(b) has ceased to be employed before the calendar year in which he attained forty-five years of age,

is entitled either to an annual superannuation allowance during his lifetime or to a refund of his contributions under subsection 53 (1). R.S.O. 1970, c. 455, s. 28 (6); 1975, c. 85, s. 6 (3).

Idem

(7) Where a person elects to take an allowance under subsection (6), subsections (2), (3), (4) and (5) apply with necessary modifications. R.S.O. 1970, c. 455, s. 28 (7).

Retirement  
on account  
of total  
permanent  
disability  
"C" pension

33.—(1) Every person who,

(a) has credit in the Fund for ten or more years of service;

(b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of further earning his livelihood;

(c) ceased to be employed before the end of the school year in which he would attain the age of sixty-five years; and

(d) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 49, entitled to an annual disability allowance during his lifetime. R.S.O. 1970, c. 455, s. 29 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by section 29, but the reduction prescribed

by subsection 29 (1) does not apply to a teacher whose allowance commenced before the 1st day of January, 1971. R.S.O. 1970, c. 455, s. 29 (2); 1971 (2nd Sess.), c. 9, s. 16.

**34.**—(1) Every person who,

Retirement  
on account of  
permanent  
disability  
as teacher,  
"CB" pension

(a) has credit in the Fund for ten or more years of service;

(b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed as a teacher or supervisory officer;

(c) ceased to be employed before the end of the school year in which he would attain the age of sixty-five years; and

(d) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 49, entitled to an annual disability allowance during his lifetime. R.S.O. 1970, c. 455, s. 30 (1).

(2) The amount of such allowance shall be computed in the manner prescribed by section 29, but the reduction prescribed by subsection 29 (1) does not apply to a teacher whose allowance commenced before the 1st day of January, 1971. R.S.O. 1970, c. 455, s. 30 (2); 1971 (2nd Sess.), c. 9, s. 17.

(3) The amount of the allowance computed under subsection (2) shall be further reduced or reduced, as the case may be, at the rate of  $2\frac{1}{2}$  per cent in respect of each year by which the age of the person is less than sixty-five at the beginning of the month next following the month in which he ceased to be employed, but the reductions shall not exceed 25 per cent in aggregate. R.S.O. 1970, c. 455, s. 30 (3).

**35.**—(1) The amount of the superannuation allowance or disability allowance of every person who was employed before the 1st day of January, 1966, shall be increased by the excess, if any, of,

Guarantee

(a) the amount of the allowance that would have been payable to him calculated under *The Teachers' Superannuation Act*, being chapter 392 of the Revised



Statutes of Ontario, 1960, as it was on the 31st day of December, 1965,

over,

R.S.O. 1960,  
c. 392

- (b) the amount of the allowance payable to him calculated under *The Teachers' Superannuation Act* as it was on the 1st day of January, 1966, together with the amount that he was entitled to receive under the *Canada Pension Plan* at the time he was first eligible to receive a benefit under that Plan.

R.S.C. 1970,  
c. C-5

Idem

- (2) Nothing in subsection (1) entitles a person to an allowance under section 31 before attaining the age of fifty-five years.  
R.S.O. 1970, c. 455, s. 31.

Dependant's  
allowance  
"D" pension

**36.**—(1) Where a person who has credit in the Fund for ten or more years dies or where a person who is in receipt of an allowance dies,

- (a) leaving a widow or widower, as the case may be, surviving, a dependant's allowance of an amount equal to,
- (i) one-half of the allowance computed in the manner prescribed in section 29, but based on the deceased person's credit in the Fund at the date of death, or
  - (ii) one-half of the allowance that the deceased person was receiving at the date of death, with the exception that, in the case of a person who had not attained the age of sixty-five years at the date of death, the allowance shall be one-half of the allowance that the person would have received at the beginning of the month following the month in which he or she attained the age of sixty-five years,

as the case may be, shall be paid to the widow or widower during her or his lifetime or until she or he remarries, and where the widow or widower dies or remarries leaving a child or children who at the date of death or remarriage is or are under the age of eighteen years, a dependant's allowance of an amount equal to that paid to the widow or widower shall be paid to the child or children until such age is attained; or

(b) leaving no widow or widower but leaving a child or children under the age of eighteen years, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in section 29, but based on the deceased person's credit in the Fund at the date of death, or

(ii) one-half of the allowance that the deceased person was receiving at the date of death, with the exception that, in the case of a person who had not attained the age of sixty-five years at the date of death, the allowance shall be one-half of the allowance that the person would have received at the beginning of the month following the month in which he or she attained the age of sixty-five years,

as the case may be, shall be paid to such child or children until such age is attained. 1975, c. 85, s. 7 (1).

(2) Subsection (1) does not apply to the surviving spouse of a deceased person if they were married after the date of the deceased spouse's last day of employment or to the child or children of any such surviving spouse. 1971 (2nd Sess.), c. 9, s. 18, *part*; 1975, c. 85, s. 7 (2). Exceptions

(3) Where a dependant's allowance is discontinued under this section by reason of remarriage and the spouse of such dependant dies or the marriage is dissolved, such dependant is entitled to the dependant's allowance under this section from the first day of the month following the month in which such spouse dies or the dissolution becomes final. 1975, c. 85, s. 7 (3). On death or divorce of spouse of dependant, dependant entitled to dependant's allowance

(4) In this section, "child" includes an adopted child and a step-child, and "children" has a corresponding meaning. 1971 (2nd Sess.), c. 9, s. 18, *part*. Child defined

(5) For the purposes of subsection (1), a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Commission for the purposes of this section as a place of higher education, shall be deemed not to have attained the age of eighteen years. 1973, c. 36, s. 5. Exception for higher education

Recomputa-  
tion of "CE"  
to "C"  
pension for  
purposes  
of "D"  
pension

**37.** Where a person referred to in subclause 36 (1) (a) (ii) or 36 (1) (b) (ii) was receiving a disability allowance under section 34 at the time of his death and provision was made for a special medical re-examination and no decision was made by the Commission on such re-examination, the Commission may, if it is of the opinion, having regard to the facts established at the time of his death, that the person should have been receiving a disability allowance under section 33, recompute his allowance under section 33 as of the date of his death for the purposes of a dependant's allowance under section 36. R.S.O. 1970, c. 455, s. 33.

Annuity in  
lieu of  
dependant's  
allowance

**38.**—(1) A person who has no one to whom section 36 can apply may, by a direction in writing signed by him and deposited with the Commission at least two years before he ceases to be employed, direct that the allowance to which he would be entitled be converted and paid as an annuity to him upon his retirement for his lifetime and, after his death, at one-half the rate to any dependant named in the direction.

Amount

(2) The amount of such annuity shall be the percentage indicated in the following tables of the amount of the allowance that would have been payable had no direction been given:

1. Where the dependant is younger than the person by the number of years indicated in the first column:

0 years	.....	83.9%
1 "	.....	82.9%
2 "	.....	81.9%
3 "	.....	80.9%
4 "	.....	79.9%
5 "	.....	78.9%
6 "	.....	78.0%
7 "	.....	77.1%
8 "	.....	76.2%
9 "	.....	75.3%
10 "	.....	74.4%
11 "	.....	73.6%
12 "	.....	72.8%
13 "	.....	72.0%
14 "	.....	71.2%
15 "	.....	70.5%
16 "	.....	69.8%
17 "	.....	69.2%

18 years	.....	68.6%
19 "	.....	68.0%
20 "	.....	67.4%

2. Where the dependant is older than the person by the number of years indicated in the first column:

0 years	.....	83.9%
1 "	.....	84.9%
2 "	.....	85.9%
3 "	.....	86.8%
4 "	.....	87.7%
5 "	.....	88.6%
6 "	.....	89.4%
7 "	.....	90.2%
8 "	.....	91.0%
9 "	.....	91.7%
10 "	.....	92.4%

(3) A person who has not given a direction within the time prescribed in subsection (1) may, at a later date, but not after applying for an allowance, give such a direction upon passing a medical examination satisfactory to the Commission.

Where  
direction  
not given

(4) A person who has given a direction under this section may revoke it at any time before he ceases to be employed.

Revocation  
of direction

(5) Where a person who has given a direction under this section dies,

Where  
direction not  
effective

- (a) before applying for an allowance; or
- (b) before he ceases to be employed,

the direction has no effect. R.S.O. 1970, c. 455, s. 34.

**39.**—(1) Where the Minister, a board, the Ontario Teachers' Federation, an affiliate as defined in the *School Boards and Teachers Collective Negotiations Act* or any other authority approved by the Commission enters into an agreement with an insurer within the meaning of the *Insurance Act* to provide an income to any person who contributes to the Fund in the event of a long term disability, the agreement shall be submitted to the Commission for approval.

Long term  
disability  
income  
plans  
R.S.O. 1980,  
cc. 464, 218

(2) Where an agreement submitted under subsection (1) is approved by the Commission, the Commission shall accept

Recipient's  
contributions



a contribution made by the insurer on behalf of a person who contributes to the Fund for each month in respect of which the person receives a payment under the agreement where the contribution by the insurer is made on or before the 15th day of the month next following such payment, except where such person has attained the age of sixty-five years or is in receipt of an allowance from the Fund and the contribution shall, subject to subsection (3), be 6 per cent of the annual rate of salary paid to the contributor immediately before the cessation of his employment. 1975, c. 85, s. 8.

Adjustment  
in line with  
cost of living

(3) Where an agreement approved by the Commission provides for payments to vary in amount from time to time in accordance with the cost of living, the amount of a contribution accepted by the Commission under subsection (2) shall be increased or decreased proportionately.

Contributions  
by Province

(4) Annually and at the same time as the total legislative grant is payable to the board or other authority, the Treasurer shall place to the credit of the Fund a sum equal to the total amount of the contributions made under this section in the previous twelve-month period. 1971 (2nd Sess.), c. 9, s. 19, *part*.

Application  
for  
allowance

**40.** An allowance under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. R.S.O. 1970, c. 455, s. 35.

Proof of  
disability

**41.** No application for a disability allowance shall be considered by the Commission until the Commission has obtained,

- (a) the certificate of a legally qualified medical practitioner designated by the Commission, certifying that while employed the applicant became mentally or physically incapacitated and indicating the nature and degree of the incapacitation; and
- (b) the report of the medical referee of the Commission containing such recommendations as he considers proper with regard to the granting of an allowance to the applicant. R.S.O. 1970, c. 455, s. 36.

Allowances  
to be paid  
monthly

**42.** Every allowance is payable in monthly instalments. R.S.O. 1970, c. 455, s. 38.

Commence-  
ment of  
allowances

**43.**—(1) Every allowance shall commence as of the first day of the month next following the month during which

the applicant ceased to be employed, except that a disability allowance shall not commence as of a date earlier than one year before the date upon which the completed application therefor reaches the Commission.

(2) Where an employed person dies and a dependant's <sup>Idem</sup> allowance becomes payable on his death, the allowance shall commence as of the day next following his death.

(3) Where a person who is in receipt of an allowance <sup>Idem</sup> dies on or after the 1st day of April, 1964, and a dependant's allowance becomes payable on his death, the dependant's allowance shall commence as of the first day of the month next following the month in which he died. R.S.O. 1970, c. 455, s. 39.

**44.** Every allowance terminates as of the end of the month <sup>Termination of allowances</sup> in which the event that terminates the allowance occurs. R.S.O. 1970, c. 455, s. 40.

**45.**—(1) Where a person who is receiving a superannua- <sup>Notice of re-employment</sup> tion allowance becomes employed upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs.

(2) Where a person who is receiving a disability allow- <sup>Idem</sup> ance becomes employed upon either a temporary or a permanent basis or becomes engaged as a teacher in a school or institution either in or outside Ontario upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs. R.S.O. 1970, c. 455, s. 41.

**46.**—(1) Where a person who is receiving a superannuation <sup>Effect of re-employment</sup> allowance becomes employed,

(a) the allowance shall cease to be paid; and

(b) he shall contribute to the Fund during the period that he is employed. R.S.O. 1970, c. 455, s. 42 (1).

(2) Where a person who is receiving a disability allowance <sup>Idem</sup> becomes employed,

(a) the allowance shall cease to be paid; and

- (b) he shall contribute to the Fund during the period that he is employed. R.S.O. 1970, c. 455, s. 42 (2); 1971 (2nd Sess.), c. 9, s. 21 (1).

Idem

(3) Where a person who is receiving a disability allowance becomes engaged as a teacher in a school or institution either in or outside Ontario but is not employed within the meaning of clause 1 (d), the allowance shall cease to be paid and the Commission may reinstate the allowance at the end of the period of teaching upon receipt of a written request therefor. 1971 (2nd Sess.), c. 9, s. 21 (2).

Resumption  
of super-  
annuation  
allowance

**47.** Where a person who ceased to receive a superannuation allowance because of re-employment again ceases to be employed,

- (a) in the case of a person who has been re-employed for a period of less than two school years, payment of the allowance shall be resumed without any adjustment in the amount thereof, upon receipt by the Commission of a notice in writing of the cessation of employment;
- (b) in the case of a person who has been so employed for a period of two or more school years, an application for an allowance shall be treated as an application for a new allowance; and
- (c) in no case is he entitled to receive a disability allowance. R.S.O. 1970, c. 455, s. 43.

Resumption  
of disability  
allowance

**48.** Where a person who ceased to receive a disability allowance because of re-employment again ceases to be employed,

- (a) in the case of a person who has been re-employed for a period of less than two school years, payment of the allowance shall be resumed without any adjustment in the amount thereof upon receipt by the Commission of a notice in writing of the cessation of employment; and
- (b) in the case of a person who has been so employed for a period of two or more school years, an application for an allowance shall be treated as an application for a new allowance. 1971 (2nd Sess.), c. 9, s. 22.

Evidence  
of mental  
or physical  
condition

**49.—**(1) The Commission may at any time require a person who is receiving a disability allowance under sec-

tion 33 or 34 to furnish evidence, in such form as it directs, of his mental or physical condition. 1975, c. 85, s. 9.

(2) Where the person fails to furnish evidence that his mental or physical condition continues to be of a nature that would entitle him to receive an allowance under the section under which his allowance is paid, the Commission may direct that the allowance shall cease to be paid and that no further allowance shall be paid to him or that such other allowance as the Commission finds him to be entitled to shall be paid to him. R.S.O. 1970, c. 455, s. 45 (2).

Failure to  
furnish  
evidence

50. Where the Commission is satisfied that a person to whom an allowance is payable under this Act is incapable of managing his own affairs, the Commission may direct that any cheque for moneys payable to him be made payable to a member of his family or household, and in that case the endorsement of the cheque by the person so designated by the Commission is a sufficient discharge of the Fund to the extent of such payment. R.S.O. 1970, c. 455, s. 46.

Where payee  
incapable

51. The interest of a person in the Fund and in an allowance under this Act is not subject to garnishment, attachment, seizure or other process of law and is not assignable. R.S.O. 1970, c. 455, s. 47.

No attach-  
ment, etc.

52.—(1) A refund under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form.

Refunds,  
application  
for

(2) Every refund shall be paid in a lump sum unless the person to whom it is payable, or, where he has died, his personal representative, states in the application that he wishes the amount to be paid in instalments, in which case the amount shall be paid in three equal instalments without additional interest on the days fixed by the Commission for the purpose.

Manner of  
payment

(3) Where the person to whom a refund is payable dies and has no personal representative, the refund may be paid to such person as the Commission designates. R.S.O. 1970, c. 455, s. 48.

Where no  
personal  
representa-  
tive

53.—(1) A person who,

Refunds

- (a) has credit in the Fund for less than ten years of service and who ceases to be employed; or
- (b) has credit in the Fund for ten or more years of service and who ceases to be employed before the calendar year in which he attained forty-five years of age,



is entitled to a refund of an amount equal to the whole of his contributions to the Fund with interest on each amount contributed for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, but no such refund shall be made until three months after the day upon which the person ceased to be employed. R.S.O. 1970, c. 455, s. 49 (1).

Idem

(2) A person who has credit in the Fund for ten or more years of service and who was employed for at least twenty days in the calendar year in which he attained forty-five years of age is entitled to a refund of an amount equal to the whole of his contributions to the Fund in respect of service before the 1st day of January, 1965, with interest on each amount contributed for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, but no such refund shall be made until three months after the day upon which the person ceased to be employed. R.S.O. 1970, c. 455, s. 49 (3).

Repayment  
of refunds  
on re-  
employment

**54.**—(1) A person who has withdrawn his contributions from the Fund and subsequently is employed for twenty or more days in a school year and desires to be reinstated in the Fund in respect of his former period of employment may be so reinstated by paying into the Fund an amount equal to the total of the contributions previously withdrawn and the interest thereon, if any, paid to him at the time of the withdrawal together with interest on such amount from the date of the withdrawal until the completion of the repayment, and any disability or superannuation allowance or other payment out of the Fund to which he may become entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount withdrawn and not repaid. R.S.O. 1970, c. 455, s. 50 (1).

Idem

(2) Notwithstanding subsection (1), a person who has taken a refund of his contributions to the Fund under section 53 in lieu of an annual superannuation allowance under section 32 and subsequently is employed for twenty or more days in a school year and desires to be reinstated in the Fund in respect of his former period of employment may be so reinstated by paying into the Fund an amount equal to the total of the refund, including the interest, if any, paid to him at the time of the refund, together with interest on such amount from the date of the refund until the completion of the repayment at the rate paid on Ontario Government stock or Province of Ontario debentures that are received by the Fund in the fiscal year of the Province of Ontario

in which the refund was made except that, where such rate is less than that specified in section 15, the rate shall be that specified in section 15, and any disability or superannuation allowance or other payment out of the Fund to which he may become entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount of the refund that is not repaid.

(3) No person who has withdrawn his contributions from the Fund and is subsequently employed and elects to be reinstated in the Fund under subsection (1) or (2) is eligible for a disability allowance under section 33 or 34 until he has been employed for two school years after his return to employment. 1975, c. 85, s. 10.

Eligibility  
for "C"  
or "CB"  
pension

**55.** Where a person who is in receipt of a superannuation allowance becomes employed, no refund in respect of his contributions made after his return to employment shall be made except as provided in section 57. R.S.O. 1970, c. 455, s. 51.

Return of  
super-  
annuate to  
employment

**56.** Where a person who is not in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per year compounded half-yearly. R.S.O. 1970, c. 455, s. 52.

Death before  
receiving  
allowance

**57.** Where a person who is in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by the person to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per year compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to the person with interest to the date of death at the rate of 3 per cent per year compounded half-yearly. R.S.O. 1970, c. 455, s. 53.

Death after  
becoming  
entitled to  
allowance

**58.** A person whose allowance ceased to be paid under section 49 is entitled to a refund out of the Fund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to him with interest at the rate of 3 per

Refund where  
disability  
allowance  
ceased to  
be paid

cent per year compounded half-yearly. R.S.O. 1970, c. 455, s. 54; 1975, c. 85, s. 11.

Refund  
where  
dependant's  
allowance  
or annuity  
less than  
contributions

**59. Where,**

- (a) the payments made under section 36;
- (b) the amount of the allowance and any payments made under section 36; or
- (c) the payments made under section 38,

with interest at 3 per cent per year compounded half-yearly to the date of cessation of the payments, are less than the amount of the contributions of the person, with interest on each amount for the period of time it was in the Fund at 3 per cent per year compounded half-yearly to the same date, the amount of the difference shall be paid to his personal representative. 1975, c. 85, s. 12.

Transfers,  
from Fund  
to Public  
Service  
Superannua-  
tion Fund  
R.S.O. 1980,  
c. 419

**60.**—(1) A person who elects under the *Public Service Superannuation Act* to become a contributor to the Public Service Superannuation Fund is entitled to,

- (a) a refund under section 52 for his non-continuous service as determined by the Public Service Superannuation Board; and
- (b) a transfer to the Public Service Superannuation Fund of his contributions, the Government's contributions with respect thereto and interest on both such contributions for his continuous service as determined by the Public Service Superannuation Board.

Idem,  
from Fund  
to approved  
fund

(2) Where a person ceases to be employed and becomes a contributor to a fund approved by the Commission, a sum of money equal to his contributions with interest at 3 per cent compounded half-yearly may, upon his request, be paid out of the Fund into such other fund.

Idem,  
from Public  
Service  
Superannua-  
tion Fund  
to Fund

(3) Where a person's contributions in the Public Service Superannuation Fund are transferred under the *Public Service Superannuation Act* to the Fund, he is entitled to credit in the Fund for a period equal to the period for which he made contributions to the Public Service Superannuation Fund.

Idem,  
teachers

(4) Where a person's contributions to the Public Service Superannuation Fund are not transferred under the *Public*

*Service Superannuation Act* to the Fund and he was engaged in teaching while he was a civil servant, he is entitled to credit in the Fund for a period equal to the period for which he made contributions to the Public Service Superannuation Fund upon payment into the Fund of an amount equal to the teacher contribution applicable at the time of such service, the Government's contribution with respect thereto and interest on both such contributions. R.S.O. 1970, c. 455, s. 56.

**61.** Where a person has been engaged as a teacher in Ontario and in another part of Canada or the Commonwealth for a period of time which, if the whole period had been served in Ontario would have entitled him to a superannuation allowance under this Act, and if reciprocal arrangements satisfactory to the Lieutenant Governor in Council are made by the authority having jurisdiction in that other part, the Lieutenant Governor in Council may make regulations providing for the payment to such person of a superannuation allowance under this Act, which shall bear the same ratio to the allowance to which he would have been entitled if all of his teaching had been done in Ontario, at the rates of salary he did in fact receive, as the number of his years of teaching in Ontario bears to the total number of his years of teaching. R.S.O. 1970, c. 455, s. 57. Reciprocal arrangements

**62.** Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into agreements with the authorized representatives of any other pension fund respecting the terms and conditions upon which persons may transfer to or from the Fund from or to the other pension fund. R.S.O. 1970, c. 455, s. 58. Transfer agreements

**63.** The Lieutenant Governor in Council may make Regulations regulations,

1. designating schools or classes within the meaning of subclause 1 (d) (ii) or within the meaning of subclause 1 (d) (iv);
2. designating associations or bodies of teachers within the meaning of subclause 1 (d) (x);
3. designating associations or bodies of boards or of trustees and ratepayers within the meaning of subclause 1 (d) (xi);
4. designating capacities within the meaning of subclause 1 (d) (xii).



5. designating capacities and organizations for the purpose of subclause 1 (d) (xiii);
6. designating teachers' organizations for the purpose of clause 2 (2) (b);
7. prescribing the powers and duties of the officers of the Commission, or any of them;
8. prescribing the manner in which the nomination and election of the elected members of the Commission shall be conducted;
9. prescribing the form and manner in which and by whom the accounts and records of the Commission shall be kept;
10. prescribing the terms and conditions and times that persons may contribute to the Fund under subsection 25 (5);
11. prescribing the form of application for an allowance or refund and the information and material to be furnished therewith, including the form thereof, and prescribing other information and material that shall be taken into consideration by the Commission in considering applications for allowances or refunds;
12. prescribing the procedure to be followed by the Commission in considering and disposing of applications for allowances or refunds;
13. requiring persons who are contributors to the Fund or persons who are receiving allowances from the Fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;
14. authorizing the Commission to require persons who are contributors to the Fund or persons who are receiving allowances from the Fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;
15. governing persons who have been absent from duty,
  - (a) because of ill-health,

- (b) because of pregnancy or the adoption of a child,
- (c) because of duties as jurors,
- (d) because of duties as members of the Legislative Assembly of Ontario, of the House of Commons of Canada, of the council of a municipality or of a local board as defined in the *Municipal Affairs Act*,
- (e) in order to take a course of study approved by the Commission,
- (f) for a period of sabbatical leave under the by-law of the employing board, or
- (g) in order to travel, where the purpose of the travel is approved by the Commission,

R.S.O. 1980,  
c. 30.3

and providing for and regulating the payment of contributions to the Fund in respect of such periods of absence;

16. governing persons who ceased to be employed,

- (a) because of ill-health,
- (b) because of pregnancy or the adoption of a child,
- (c) because of duties as members of the Legislative Assembly of Ontario, of the House of Commons of Canada, of the council of a municipality or of a local board as defined in the *Municipal Affairs Act*,
- (d) in order to take a course of study approved by the Commission, or
- (e) in order to travel, where the purpose of the travel is approved by the Commission,

and who are again employed and providing for and regulating the payment of contributions to the Fund in respect of such periods of unemployment;

17. prescribing the conditions under which credit may be given under the Act for teaching or inspectorial services performed,

- (a) in any part of Canada or the Commonwealth, other than Ontario, or
- (b) in a school maintained by the Government of Canada for children of members of the Canadian Forces, for Indians, or for inmates of penal institutions,

where the person is subsequently employed within the meaning of this Act, and prescribing the amount of such credit;

18. prescribing the conditions under which credit may be given under the Act for any period of teaching or supervisory services performed in a foreign country as the Commission may approve, and prescribing the amount of such credit;
19. prescribing the conditions under which credit for past teaching service in a designated private school may be given under the Act to persons who contribute to the Fund under any provision of the Act other than section 21, and prescribing the method of determining the period for which such credit may be given and the amount thereof;
20. providing for and regulating the transfer from the Fund into any other fund established under the authority of the Parliament of Canada or the legislature of any province of Canada of an amount equal to a teacher's contributions, government contributions in respect thereof, and accumulated interest thereon, or equal to any one or more of them;
21. prescribing the conditions under which credit in the Fund may be given where moneys are transferred to the Fund from the Public Service Superannuation Fund and prescribing the method of determining the period for which credit shall be given;
22. defining the meaning of "part-time employment" for the purpose of the regulations and prescribing the method of determining the period for which credit shall be given for part-time employment;
23. prescribing special provisions governing the conditions under which persons in receipt of allowances may become employed and providing for reductions in the allowances paid to them;

24. defining active service, providing for credits under this Act in respect of active service, and prescribing the terms and conditions upon which such credits may be given, the method of determining the periods for which such credits may be given, and the amount thereof;
25. respecting persons employed in schools whose board or teachers, or both, are reported by the Minister to the Commission as having failed to comply with any Acts or regulations administered by the Ministry including,
  - (a) the terms and conditions upon which contributions shall be made to the Fund, and
  - (b) the credit to be given to such persons in respect of the period of non-compliance;
26. prescribing the conditions under which a refund may be made to a person who establishes credit in the Fund under the regulations or who pays money into the Fund under the regulations for the purpose of establishing credit, and prescribing the method of determining the amount of such refund;
27. prescribing forms and providing for their use;
28. respecting any right or class thereof that is deemed to be prejudicially affected by the repeal of a predecessor of this Act and the substitution of another Act for such Act;
29. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 455, s. 59; 1972, c. 1, s. 1; 1975, c. 85, s. 13.





## CHAPTER 495

## Teaching Profession Act

**1.** In this Act,Interpre-  
tation

- (a) “Board of Governors” means the Board of Governors of the Federation;
- (b) “board of trustees” means a board of education, board of secondary school trustees, board of public school trustees, board of separate school trustees or divisional board of education;
- (c) “executive” means the executive of the Federation;
- (d) “Federation” means The Ontario Teachers’ Federation;
- (e) “member” means a member of the Federation;
- (f) “Minister” means the Minister of Education;
- (g) “Ministry” means the Ministry of Education;
- (h) “regulations” means the regulations made under this Act;
- (i) “teacher” means a person who is legally qualified to teach in an elementary or secondary school and is under contract in accordance with Part IX of the *Education Act* but does not include a supervisory officer, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month. R.S.O. 1970, c. 456, s. 1; 1972, c. 1, s. 66.

R.S.O. 1980,  
c. 129

**2.** The federation of teachers known as The Ontario Teachers’ Federation is continued as a body corporate. R.S.O. 1970, c. 456, s. 2.

Body  
corporate**3.** The objects of the Federation are,

Objects

- (a) to promote and advance the cause of education;
- (b) to raise the status of the teaching profession;

- (c) to promote and advance the interests of teachers and to secure conditions that will make possible the best professional service;
- (d) to arouse and increase public interest in educational affairs; and
- (e) to co-operate with other teachers' organizations throughout the world having the same or like objects. R.S.O. 1970, c. 456, s. 3.

Membership  
in Federa-  
tion

4.—(1) Every teacher is a member of the Federation except,

1944, c. 64

- (a) a teacher who has withdrawn from membership under subsection 4 (1) or (2) of *The Teaching Profession Act, 1944*;
- (b) a teacher who,
  - (i) at any time during World War II was a member of Her Majesty's forces or engaged on special war service designated by the regulations, and
  - (ii) at the time of entering the forces or becoming engaged on such service was a teacher or was training to be a teacher at a provincial normal school or the Ontario College of Education, and
  - (iii) notifies the Minister and the secretary of the Board of Governors of his withdrawal from membership by registered letter posted not later than six months after he ceases to be in the forces or on special war service.

Associate  
members

(2) Every student in a teachers' college or in a college of education in Ontario is an associate member of the Federation.

Persons  
receiving  
pension  
under  
R.S.O. 1980,  
c. 494

(3) Every person who was a member of the Federation upon retirement and who is receiving a pension or an allowance under the *Teachers' Superannuation Act* may, on request, be an associate member of the Federation. R.S.O. 1970, c. 456, s. 4.

Board of  
Governors

5.—(1) There shall be a Board of Governors of the Federation, which shall be composed of fifty members

consisting of the immediate past president, the president, the first vice-president, the second vice-president and the secretary-treasurer of each of, The Ontario Secondary School Teachers' Federation, The Federation of Women Teachers' Associations of Ontario, The Ontario Public School Men Teachers' Federation, L'Association des Enseignants Franco-Ontariens and The Ontario English Catholic Teachers' Association, and five representatives of each of such federations or associations, who shall be elected annually at the annual meeting of the federation or association from among its members.

(2) The members of the Board of Governors shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. <sup>Term of office</sup>

(3) If a vacancy occurs on the Board of Governors, <sup>Vacancies</sup> it shall be filled by the executive of the affiliated body that the person who vacated the office represented and the person so named to fill the vacancy shall hold office for the remainder of the term of the person who vacated the office. R.S.O. 1970, c. 456, s. 5.

**6.**—(1) There shall be an executive of the Federation, <sup>Executive</sup> which shall be composed of eleven members as follows:

- (a) the immediate past president, the president, the first vice-president, the second vice-president and the third vice-president of the Federation;
- (b) one representative of The Ontario Secondary School Teachers' Federation, one representative of The Federation of Women Teachers' Associations of Ontario, one representative of The Ontario Public School Men Teachers' Federation, one representative of L'Association des Enseignants Franco-Ontariens and one representative of The Ontario English Catholic Teachers' Association, who shall be elected annually at the annual meeting of the Board of Governors from among its members; and
- (c) the secretary-treasurer of the Federation.

(2) The members of the executive shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. <sup>Term of office</sup>

(3) If a vacancy occurs on the executive, it may be filled by the Board of Governors from among its members <sup>Vacancies</sup>



who represent the affiliated body that the person who vacated the office represented, and the person so named shall hold office for the remainder of the term of the person who vacated the office. R.S.O. 1970, c. 456, s. 6.

President  
and vice-  
presidents

7. There shall be a president, a first vice-president, a second vice-president and a third vice-president of the Federation who shall be elected annually at the annual meeting of the Board of Governors from among its members in such a manner that the officers of the immediate past president, president, first vice-president, second vice-president and third vice-president shall represent each of the affiliated bodies. R.S.O. 1970, c. 456, s. 7.

Secretary-  
treasurer

8. There shall be a secretary-treasurer of the Federation appointed by the Board of Governors who may be a member of the Board of Governors and who shall receive such remuneration as may be fixed by the Board of Governors. R.S.O. 1970, c. 456, s. 8.

Functions  
of executive

9. The executive is responsible for carrying on the business of the Federation and may,

- (a) subject to the approval of the Minister, acquire and hold in the name of the Federation such real and personal property as may be necessary for the purposes of the Federation and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;
- (b) invest the funds of the Federation in any securities in which a trustee is authorized to invest money in his hands under the *Trustee Act*;
- (c) make such grants as it considers advisable to organizations having the same or like objects as the Federation. R.S.O. 1970, c. 456, s. 9.

R.S.O. 1980,  
c. 512

Conferences

10. In the interests of the advancement of education and the improvement of teaching conditions in Ontario, the Board of Governors shall meet annually and confer with the Minister and the senior officials of the Ministry on matters touching and concerning the objects of the Federation, and the Board of Governors shall at such meeting and may at any other time make such representations and recommendations either of a general nature or which relate to any particular school, teacher or matter as it considers advisable and as are in keeping with the objects of the Federation. R.S.O. 1970, c. 456, s. 10; 1972, c. 1, s. 1.

**11.** The prescribed membership fee shall be deducted by the board of trustees from the salary of each teacher, <sup>Collection of fees</sup>

- (a) where a single deduction is made, once in the month of November, or in the first full month thereafter in which the teacher begins a term of employment; or
- (b) where instalment deductions are made,
  - (i) where a teacher is employed for ten months or more, in not fewer than ten instalments, and
  - (ii) where a teacher is employed for fewer than ten months, in fewer than ten instalments,

and shall be forwarded to the treasurer of the Federation.  
R.S.O. 1970, c. 456, s. 11.

**12.** Subject to the approval of the Lieutenant Governor in Council, the Board of Governors may make regulations, <sup>Regulations</sup>

- (a) prescribing a code of ethics for teachers;
- (b) prescribing the fees to be paid by members of the Federation and the dates by which they are to be forwarded to the treasurer of the Federation;
- (c) providing for voluntary membership in the Federation of persons who are not members thereof and prescribing the duties, responsibilities and privileges of voluntary members;
- (d) prescribing the duties, responsibilities and privileges of associate members;
- (e) providing for the suspension and expulsion of members from the Federation and other disciplinary measures;
- (f) designating the services and organizations that shall be deemed to be special war services for the purposes of clause 4 (1) (b);
- (g) providing for the holding of meetings of the Board of Governors and of the executive and prescribing the manner of calling and the notice to be given in respect of such meetings;

- (*h*) prescribing the procedure to be followed at meetings of the Board of Governors and of the executive;
  - (*i*) providing for the payment of necessary expenses to the members of the Board of Governors and the executive;
  - (*j*) conferring powers upon or extending or restricting the powers of and prescribing the duties of the Board of Governors and of the executive;
  - (*k*) providing for the appointment of standing and special committees;
  - (*l*) providing for the establishment of branches of the Federation or of the recognition by the Federation of local bodies, groups or associations of teachers which shall be affiliated with the Federation.
- R.S.O. 1970, c. 456, s. 12.

## CHAPTER 496

**Telephone Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Commission" means the Ontario Telephone Service Commission;
- (c) "commissioners" means the persons elected by the subscribers of a municipal telephone system for the control and management of the system;
- (d) "initiating municipality" means a municipality that has established a municipal telephone system under this Act or a predecessor of this Act;
- (e) "municipal telephone system" means a telephone system, other than a public utility, established by by-law of a municipality under a predecessor of this Act;
- (f) "plant" means the buildings, works, apparatus and equipment, including vehicles, used in the operation of a telephone system;
- (g) "rate" means any rental or charge for supplying telephone exchange service and all services associated therewith;
- (h) "regulations" means the regulations made under this Act;
- (i) "subscriber", in respect of a municipal telephone system, means a landowner who has signed a petition to the council of a municipality praying for the establishment or extension of a telephone system that is afterwards established or extended pursuant to the petition or upon whose property an annual rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining the system or the extension or any reconstruction, replacement or alteration of the system or any part thereof, and also means a person who, being a subscriber as defined above, has fully paid all annual



rates in respect of the establishment of the system or of its extension and the cost of maintenance during the period for which debentures have been issued to pay the cost of the establishment or extension and who continues thereafter to take telephone service from the system on the basis of paying such charges therefor as are approved;

- (j) "toll" means any charge, other than a rate, for the transmission of telephone messages. R.S.O. 1970, c. 457, s. 1.

Telephone  
Service  
Commission

**2.**—(1) The body corporate known as the Ontario Telephone Service Commission is continued.

Membership

(2) The Commission shall consist of three or more members appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one of them as vice-chairman.

Remunera-  
tion

(4) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Quorum

(5) Two members constitute a quorum. R.S.O. 1970, c. 457, s. 2.

When vice-  
chairman  
may act

**3.**—(1) In the absence of the chairman or in the case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman, including the power to complete any unfinished matter.

Presumption  
where vice-  
chairman  
has acted

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. R.S.O. 1970, c. 457, s. 3.

Staff

**4.** The Lieutenant Governor in Council may appoint a secretary and such other officers, clerks and employees as may be necessary for the conduct of the affairs of the Commission. R.S.O. 1970, c. 457, s. 4.

Administra-  
tion costs

**5.** The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 457, s. 5.

Jurisdiction  
of  
Commission

**6.**—(1) The Commission has jurisdiction and power to hear and determine all applications made, proceedings instituted and matters brought before it under this Act and,

for such purposes, to make such orders, rules and regulations, to give such directions, to issue such certificates and otherwise to do and perform all acts, matters, deeds and things as it considers necessary. R.S.O. 1970, c. 457, s. 6 (1).

(2) For the purpose of any proceeding under subsection (1), the Commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such proceeding as if it were an inquiry under that Act. R.S.O. 1970, c. 457, s. 6 (2); 1971, c. 49, s. 18. <sup>Powers of investigation</sup> <sup>R.S.O. 1980, c. 411</sup>

(3) Every person summoned to attend before the Commission shall, in the discretion of the Commission, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1970, c. 457, s. 6 (3). <sup>Witness fees</sup>

7. The chairman may authorize any one of the members of the Commission to report to the Commission upon any question or matter arising in connection with the business of the Commission and, when so authorized, such member has all the powers of the Commission for the purpose of taking evidence and acquiring information for the purposes of the report and, upon the report being made to the Commission, it may be adopted as the order of the Commission or otherwise dealt with as the Commission considers proper. R.S.O. 1970, c. 457, s. 7. <sup>Reference to a member</sup>

8. All orders and other documents made or issued by the Commission are effective if signed by the chairman or vice-chairman. R.S.O. 1970, c. 457, s. 8. <sup>Signing of orders, etc.</sup>

9.—(1) The Commission shall sit at such times and places as the chairman from time to time designates and shall conduct its proceedings in such manner as seems to it most convenient for the speedy and effectual dispatch of its duties. <sup>Sittings</sup>

(2) The sittings of the Commission may be either private or open to the public, but any complaint made to the Commission shall, upon the application of any party thereto, be heard publicly. <sup>Idem</sup>

(3) Where the sittings of the Commission are appointed to be held in a municipality in which a court house is situate, the Commission and its members have in all respects the same rights as a judge of the Supreme Court in respect of the use of the court house, or any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. <sup>Use of court house</sup>

(4) Where the sittings of the Commission are appointed to be held in a municipality in which there is a municipal hall <sup>Use of town hall</sup>

but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for the purpose. R.S.O. 1970, c. 457, s. 9.

Variation of  
orders, etc.

**10.** The Commission may rehear any application and may review, amend or revoke its decisions, orders, directions, consents or approvals and may within its jurisdiction review, amend or revoke the decisions, orders, directions, rules or approvals made by the Commission or any predecessor of the Commission. R.S.O. 1970, c. 457, s. 10.

Determina-  
tion of  
disputes

**11.** The Commission has exclusive jurisdiction to hear and determine any differences that arise between two or more telephone systems or municipalities in respect of the establishment, extension, operation or maintenance of a telephone system or in respect of any act, matter or thing required to be done by them or any of them under this Act, and to make such orders in respect thereof as it considers proper. R.S.O. 1970, c. 457, s. 11.

Inquiry as  
to whether  
rates  
sufficient

**12.** The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a telephone system, other than a municipal telephone system, are sufficient to pay the funded debt and interest accruing thereon and the cost of operation and maintenance and a reasonable return on capital investment, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper. R.S.O. 1970, c. 457, s. 12.

Examination  
of and  
report upon  
telephone  
system

**13.—(1)** The Commission, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act or upon any application, complaint or dispute before the Commission or in connection with any matter or thing over which the Commission has jurisdiction, may direct any person to examine and report upon the construction, operation or management of a telephone system, and for that purpose such person may at all reasonable hours enter any building, office or other premises belonging to or connected with the system and examine all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to the system and examine the switchboards, instruments, toll stations and all other property that belongs to or forms a part of the system.

Powers of  
examiner

R.S.O. 1980,  
c. 347

**(2)** The person directed to make such examination and report has and may exercise any of the powers set out in section 52 of the *Ontario Municipal Board Act*.

(3) Upon receiving the report of the person directed to make examination and report, the Commission may adopt the report in whole or in part and may thereupon make such order in respect of the subject-matter of the report as it considers proper. R.S.O. 1970, c. 457, s. 13.

Implement-  
ation of  
report of  
examiner

**14.** The Commission may inquire into, hear and determine an application by or on behalf of any person,

Powers of  
Commission  
to hear  
complaints

- (a) complaining that a telephone system has failed to do any act, matter or any thing required to be done by it under this Act or the regulations or under a predecessor of this Act or that a system has done or is doing anything contrary to this Act or the regulations;
- (b) complaining that a system is charging rates or tolls in excess of those approved by the Commission;
- (c) requesting the Commission to make any order or give any direction or approval that by law it is authorized to make or give. R.S.O. 1970, c. 457, s. 14.

**15.—(1)** The Commission of its own motion may order any person, system or municipality to do forthwith or within any specified time and in the manner directed by the Commission anything that any person, system or municipality is or may be required to do under this Act or the regulations, and the Commission may, by its order, forbid the doing or continuing of anything that is in contravention of this Act or the regulations.

Powers of  
Commission  
exercisable  
on its own  
motion

(2) Every person, system or municipality that refuses or neglects to comply with an order of the Commission made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 457, s. 15.

Penalty for  
refusal or  
neglect to  
obey order  
of Com-  
mission

**16.** The Commission may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved is not open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto. R.S.O. 1970, c. 457, s. 16.

Commission  
may  
approve of  
forms, etc.

**17.—(1)** The Commission may, of its own motion or upon the application of any party to proceedings before the Commission and upon such security being given as it may

Stated case



direct, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Commission, is a question of law.

Idem

(2) The Divisional Court shall hear and determine the stated case and remit it to the Commission with the opinion of the court thereon. R.S.O. 1970, c. 457, s. 17.

Rescission  
or orders by  
Lieutenant  
Governor  
in Council

**18.** The Lieutenant Governor in Council may at any time upon petition of any party, all parties first having been heard, vary or rescind any order or decision of the Commission whether the order or decision was made *inter partes* or otherwise, and any order that the Lieutenant Governor in Council makes with respect thereto is binding upon the Commission and all parties. R.S.O. 1970, c. 457, s. 18.

Appeals of  
question of  
jurisdiction  
and law

**19.—**(1) An appeal lies from the Commission to the Divisional Court upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the order or decision sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

Notice of  
appeal

(2) Upon such leave being obtained, the registrar of the court shall set the appeal down for hearing at the next sittings of the court and the party appealing shall, within ten days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before the Commission, and to the Commission notice in writing that the case has been so set down and the appeal shall be heard and disposed of by the court as speedily as practicable.

Opinion  
of court

(3) On the hearing of an appeal under this section, the court may draw such inferences as are not inconsistent with the facts expressly found by the Commission and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Commission and the Commission shall make an order in accordance with such opinion.

Commission  
may be  
heard

(4) The Commission is entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Commission  
not liable  
for costs

(5) The Commission or any member thereof is not liable for costs in connection with any appeal or application for leave to appeal under this section. R.S.O. 1970, c. 457, s. 19.

**20.** Except as provided in sections 18 and 19 every order and decision of the Commission is final and binding. R.S.O. 1970, c. 457, s. 20. Orders of Commission final and binding

**21.** An order of the Commission may be general or particular in its application territorially or as to time or otherwise. R.S.O. 1970, c. 457, s. 21. Orders may be general or particular

**22.** The *Regulations Act* does not apply to any order, regulation or by-law made under the authority of this Act. R.S.O. 1970, c. 457, s. 22. R.S.O. 1980, c. 446 not to apply

**23.** The costs of and incidental to any proceedings before the Commission are in the discretion of the Commission, and the Commission may order by whom and to whom any costs are to be paid. R.S.O. 1970, c. 457, s. 23. Costs of proceedings before Commission

**24.** The Commission shall, after the close of each calendar year, make an annual report upon the affairs of the Commission to the member of the Executive Council to whom the administration of this Act is assigned, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 103. Annual report

**25.** Nothing in this Act confers upon the Commission any jurisdiction as to matters that are under the *Power Corporation Act* or that otherwise are within the exclusive jurisdiction of Ontario Hydro. R.S.O. 1970, c. 457, s. 25; 1973, c. 57, s. 19. Act not to affect Ontario Hydro R.S.O. 1980, c. 384

**26.** The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) to regulate and control the business practices and accounting practices of telephone systems;
- (b) prescribing the forms of accounts, books of accounts and records to be kept by telephone systems;
- (c) to regulate and control the type of construction of plants of telephone systems;
- (d) to regulate and control the maintenance and operating practices of telephone systems;
- (e) prescribing rules of practice and procedure applicable to proceedings before the Commission;
- (f) prescribing fees applicable to proceedings before the Commission and for certified copies of orders and other documents made or issued by the Commission;

- (g) prescribing the form of and the particulars to be contained in tariffs of rates and tolls and the manner and form in which tariffs of rates and tolls shall be published and kept open for public inspection;
  - (h) prescribing the form and the particulars to be contained in the annual returns to be made by telephone systems to the Commission;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 457, s. 26.

Establishment and operation of telephone system as public utility

**27.** Any municipality may establish and carry on a telephone system as a public utility and for the purposes of such system may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone plant and do all things necessary or convenient for the purpose including the issue of debentures to meet the cost of the same. R.S.O. 1970, c. 457, s. 27.

Acquisition of existing systems

**28.** A municipality may, for the purpose of establishing or carrying on a telephone system as a public utility, acquire by purchase or lease or, subject to sections 35 to 86 in that behalf, may expropriate any system in the municipality. R.S.O. 1970, c. 457, s. 28.

Debentures of acquired system to be paid by municipality

**29.** Where a municipal system is acquired by a municipality under section 28, any debentures theretofore issued in respect of the municipal telephone system and then outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them and the debentures as they mature and fall due and the interest upon them become a first charge against the revenues of the system, and, if such revenues are insufficient in any one or more years, they shall be met and paid by a special rate to be imposed by the municipality upon all rateable property in the municipality. R.S.O. 1970, c. 457, s. 29.

Debentures, assent of electors

**30.** No by-law authorizing the issue of debentures and no by-law authorizing the assumption of any outstanding debentures issued in respect of a municipal telephone system may be passed by the council of a municipality in the exercise of the powers conferred by section 27, 28 or 29 until the approval of the Board has been first obtained and such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under the *Municipal Act*. R.S.O. 1970, c. 457, s. 30.

**31.** Where parts of a building in a municipality are owned or occupied by different persons, the municipality may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner or in the possession of any tenant or occupant. R.S.O. 1970, c. 457, s. 31.

Right of  
passage

**32.** Parts III and IV of the *Public Utilities Act* apply with necessary modifications to a municipality establishing and carrying on a telephone system as a public utility, and the expression "public utility", where it occurs in those Parts, includes a telephone system. R.S.O. 1970, c. 457, s. 32.

Parts III  
and IV of  
R.S.O. 1980,  
c. 423,  
to apply

**33.**—(1) Where a municipality has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under section 27 or 28 or where it has undertaken the construction, purchase or acquisition of such a system and it appears that the cost of the construction, purchase or acquisition has exceeded or will exceed the amount already provided for that purpose or where it is considered expedient by the council of the municipality to construct an extension or an improvement of the system, the council may, with the approval of the Board, pass a by-law for borrowing such further or other sums as may be necessary to complete, extend or improve the system or for the purchase or acquisition of the system or to meet the cost of any extension or improvement already made to the system.

Borrowing  
money for  
extension or  
acquisition

(2) The by-law does not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board.

Where  
assent of  
electors not  
required

(3) Such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement or for the completion of the system or the purchase or acquisition is necessary and that sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon or where it is made to appear to the Board that the net revenue to be derived from the system justifies the construction of such extension or improvement. R.S.O. 1970, c. 457, s. 33.

Where  
approval  
may be  
given

**34.** Sections 42 to 44, sections 53 to 56, section 62, sections 80 to 84, section 86, sections 89 to 99 and sections 102 to 115 apply with necessary modifications to a municipality carrying on a telephone system as a public utility. R.S.O. 1970, c. 457, s. 34.

Application  
of other  
provisions



Petition for  
establish-  
ment of  
system

**35.** A petition signed by not less than ten assessed landowners may be presented to the council of a local municipality praying for the establishment of a municipal telephone system. R.S.O. 1970, c. 457, s. 35.

Petition for  
extension  
of system

**36.** A petition signed by one or more assessed landowners may be presented to the council of a local municipality or the commissioners, as the case may be, in which a municipal telephone system has been established praying for an extension of the system so as to serve his or their premises, as the case may be. R.S.O. 1970, c. 457, s. 36.

Particulars  
to be stated  
in petition  
and removal  
of names

**37.** A petition under section 35 or 36 shall set forth such particulars as the Commission requires, and a signature after being affixed to the petition shall not be removed therefrom except with the approval of the Commission, but no application for such approval shall be considered by the Commission after the lapse of six months from the date of the passing of the by-law for the establishment of the municipal telephone system or, in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to the petition. R.S.O. 1970, c. 457, s. 37.

Adding  
signatures  
to petition

**38.** Where the petition for the establishment or extension of a municipal telephone system prays that debentures of the initiating municipality be issued to pay the cost of the work, any additional landowner may, with the permission of the council or the commissioners, as the case may be, at any time before the passage of the debenture by-law, affix his signature to the petition, and thereupon and thereafter the additional landowner has all the rights and is subject to all the obligations of the original signatories to the petition. R.S.O. 1970, c. 457, s. 38.

Petition to  
constitute  
contract

**39.** The petition constitutes a valid and binding contract on the part of each person signing it to repay to the initiating municipality his share of the cost of establishing or extending the municipal telephone system, as the case may be, and operating and maintaining the system. R.S.O. 1970, c. 457, s. 39.

By-law for  
establish-  
ment of  
system

**40.** Upon the receipt of a petition praying for the establishment of a municipal telephone system, the council of the initiating municipality may by by-law, at the expense of the subscribers and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the system. R.S.O. 1970, c. 457, s. 40.

**41.** After the establishment of a municipal telephone system, the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the system, construct any extension that seems expedient and necessary in order to supply telephone service to the petitioners. R.S.O. 1970, c. 457, s. 41. Construction of extensions

**42.** The council of the initiating municipality or the commissioners, as the case may be, may from time to time extend the system into another municipality with the consent of the council of such other municipality or, without such consent, with the approval of the Commission. R.S.O. 1970, c. 457, s. 42. Extension of system to another municipality

**43.** Subject to section 101, the council of the initiating municipality or the commissioners, as the case may be, may, with the consent of the Commission, extend the system into territory without municipal organization, and the part of such territory into which the system is extended, to be defined by the Commission, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality, and the council and officers thereof shall levy and collect all rates and tolls under this Act and do all acts and perform all duties and are subject to the same liabilities in respect of such part as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. R.S.O. 1970, c. 457, s. 43. Extension of system into unorganized territory

**44.—(1)** The initiating municipality, before proceeding to establish a system, shall furnish to the Commission a certified copy of the by-law providing for the establishment of the system, together with such plans, particulars of the cost of the work and such other information as the Commission requires, and no debt shall be incurred for the construction of the system or for the purchase of material to be used in the construction of its plant until the Board with the consent of the Commission has approved the by-law. Approval of by-laws, plans and specifications

**(2)** The by-laws may provide in general terms for the making of extensions to the system from time to time thereafter and, upon the receipt of a petition for an extension, the initiating municipality may from time to time construct the extension, and, if any such extension requires the issue of debentures, the by-law authorizing the issue shall recite the making of the extension and shall adopt and confirm the same. R.S.O. 1970, c. 457, s. 44. Extensions

**45.** The council of the initiating municipality or the commissioners, as the case may be, shall, with the approval of Location of exchange

the Commission, determine the location of any exchange or switchboard of the system and any relocation of the same. R.S.O. 1970, c. 457, s. 45.

**Ownership  
of system**

**46.** A municipal telephone system established or extended is vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality is liable for all the obligations of the system and has and may exercise all or any of the powers conferred on a municipality by sections 27, 28 and 31. R.S.O. 1970, c. 457, s. 46.

**Sale of  
system  
or part**

**47.—(1)** Subject to the approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and subject to the approval of the Commission, the council of an initiating municipality in which a municipal telephone system is vested may by by-law provide for the sale or other disposition of the whole or any part of the system.

**Approval  
not required**

(2) The Commission may by order dispense with the approval of the subscribers to the sale or other disposition of part of a system that, in the opinion of the Commission, is not a substantial part of the system.

**Use of  
proceeds to  
discharge  
debts**

(3) The proceeds of the sale or other disposition shall be applied and used in payment of the outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system.

**Where  
deficiency  
occurs**

(4) Where the assets of the system and the proceeds of the sale or other disposition of the whole or the part of the system are not sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due in equal shares from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by the subscribers under this Act.

**Disposition  
of surplus**

(5) The proceeds of the sale or other disposition not required for the purposes mentioned in subsection (3) shall,

- (a) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and
- (b) in the case of a sale or other disposition of the whole of the system, belong to the subscribers and

be distributed among them in such manner and on such basis, having regard to their separate interests, as the Commission directs.

(6) Where from absence or loss of records or other cause <sup>Where subscribers are unknown</sup> the council of the initiating municipality is unable to ascertain who the subscribers are and is therefore unable to obtain their approval to a sale or other disposition of the whole or a part of the system, the council, with the approval of the Commission upon proof of the fact and upon proof that the assets of the system and the proceeds of the sale or other disposition of the whole or part of the system will be sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, may authorize the sale or other disposition notwithstanding the absence of such approval, and the proceeds of the sale or other disposition not required for the purposes mentioned in subsection (2) shall,

- (a) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and
  - (b) in the case of a sale or other disposition of the whole of the system, be held, applied, used, distributed and disposed of in accordance with the directions of the council or the commissioners, as the case may be, and the approval of the Commission.
- R.S.O. 1970, c. 457, s. 47.

**48.**—(1) Where the subscribers or a majority of them, in <sup>Issuing debentures for cost of work</sup> a petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding twenty years and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for the establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within a period not exceeding twenty years from the date of the issue thereof and that the proceeds of the debentures shall be applied in payment of the cost of establishing or extending the system, as the case may be, and for levying a special rate upon the property of the subscribers sufficient to discharge the debt so incurred in equal annual instalments of principal and interest.

(2) The debentures shall be issued on the credit of the <sup>Assent of electors not required</sup> initiating municipality, and it is not necessary that the by-



law authorizing their issue be submitted for the assent of the electors, but no such by-law shall be passed for any of the purposes of this section until the approval of the Board has first been obtained. R.S.O. 1970, c. 457, s. 48.

Agreement  
for advances

**49.** The initiating municipality may, subject to subsection 44 (1) and subsection 48 (2), agree with any person for temporary advances to meet the cost of the work until the completion thereof and may then pass the necessary by-law authorizing the issue of debentures out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two years after the passing of the by-law for the establishment or extension of the system, as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the debentures, but the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application therefor is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within the extended time. R.S.O. 1970, c. 457, s. 49.

Reconstruction,  
replacement or  
alteration  
of system

**50.—**(1) Where, in the opinion of the council of the initiating municipality or the commissioners, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof and to issue debentures of the initiating municipality to meet the cost thereof, the council of the initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and the prior approval of the Board, pass a by-law authorizing the doing of the work and the issuing of debentures for that purpose, and it is not necessary that the by-law be submitted for the assent of the electors.

How cost  
paid

(2) The Board shall determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

Provisions  
of Act  
to apply

(3) The provisions of this Act as to debentures apply to debentures issued under this section. R.S.O. 1970, c. 457, s. 50.

**51.** The initiating municipality may, with the approval of the subscribers and with the prior approval of the Board and without obtaining the assent of the electors, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system for the purpose of furnishing telephone service to persons who are not landowners but, before approving of any such by-law, the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures or that the net revenue derived from the system justifies the construction of such extension or extensions. R.S.O. 1970, c. 457, s. 51.

Extensions  
for persons  
not assessed  
as land-  
owners

**52.** Where an initiating municipality has been ordered by the Board or is ordered by the Commission to construct works under this Act, such works shall be deemed to be an extension of the system of such municipality and the council of the initiating municipality has and may exercise in respect of such works the like powers as are vested in the council by this Act in respect of the construction of an extension of a system and the issue of debentures to meet the cost thereof, and such powers may be exercised without a petition from the subscribers to the system or any of them. R.S.O. 1970, c. 457, s. 52.

Works  
ordered to  
be deemed  
extension  
of system

**53.** An initiating municipality may, with the consent of the Commission and the approval of the Board, by agreement with the owner acquire by purchase all or any part of any existing telephone system in the municipality or any part of such system in another municipality with the consent of the council of such other municipality and, failing such consent, with the approval of the Commission. R.S.O. 1970, c. 457, s. 53.

Purchase by  
municipality  
of existing  
system

**54.—(1)** For the establishment or extension of a telephone system or to avoid duplication of systems or any part thereof, an initiating municipality may offer to purchase at a fixed price a telephone system or any part thereof, and, if the owner does not accept the price so offered within one month from the date of the offer, the initiating municipality may, with the consent of the Commission and the approval of the Board, expropriate the system or the part thereof that it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Commission, except that, where the expropriation includes the expropriation of land as defined in the *Expropriations Act*, that Act applies.

Acquisition  
of system by  
agreement or  
expropriation

R.S.O. 1980,  
c. 148

Damage  
resulting  
from  
severance

(2) In fixing the price to be offered or the compensation to be made where part only of a system is proposed to be purchased or is expropriated, there shall be included in the price or compensation, as the case may be, a sum sufficient to compensate the owner of the system for any damage directly resulting from the severance. R.S.O. 1970, c. 457, s. 54.

Arbitration  
by Commis-  
sion where  
parties fail  
to agree

**55.** Where a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the system of a municipality operating in the first-named municipality or in an adjoining municipality and the parties are unable to agree upon the price to be paid therefor, the Commission may prohibit further proceedings or may approve the acquisition and settle the terms and conditions thereof including the price to be paid and all other matters proper to be taken into consideration. R.S.O. 1970, c. 457, s. 55.

Powers of  
council to  
borrow  
money and  
to issue  
debentures

**56.** Where the council of an initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. R.S.O. 1970, c. 457, s. 56.

Liability of  
subscribers

**57.** The cost of establishing a municipal telephone system or of an extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as are fixed by the council of the initiating municipality with the approval of the Commission, and, in case of default in payment by any subscriber of the amount so fixed, it may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. R.S.O. 1970, c. 457, s. 57.

Special rate  
a charge  
on land

**58.—**(1) Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the special rates assessed against the land of a subscriber are a charge upon the land designated by the subscriber in the petition for the establishment or extension of a system and being land owned by the subscriber when he signed the petition, and shall, notwithstanding a change in the ownership of the land, continue to be a charge thereon



until such rates have been fully paid, and such rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor or may be placed upon the collector's roll against the land as taxes due from the owner of the land and may be collected in the same manner as other taxes, and this section applies to all such rates heretofore or hereafter assessed against any lands under this Act or any predecessor of this Act.

(2) Where land is liable to be specially assessed to meet the cost of the work, any subscriber may commute, for a payment in cash, the special rates assessable against his land forthwith after the actual cost of the work and the proportion of the cost payable by him have been ascertained. R.S.O. 1970, c. 457, s. 58.

Commuta-  
tion of  
special rates

**59.**—(1) The cost of maintenance of a municipal telephone system shall be defrayed by the subscribers in equal proportions or in such other proportions as are fixed by the council of the initiating municipality and approved by the Commission and is a charge on the lands of the subscribers in the same proportion, and may be collected in the same manner and with the same remedies, as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of such cost.

Cost of  
maintenance

(2) Any tolls or moneys paid by the initiating municipality to any other system for telephone service furnished by such system to any subscriber of the initiating municipality are a charge upon the land of the subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of the system. R.S.O. 1970, c. 457, s. 59.

Collections  
of tolls paid  
to other  
systems for  
subscribers

**60.**—(1) Where there are not outstanding debentures of a municipal telephone system, a subscriber may be released and discharged from all liability in respect of the system upon application to the Commission.

Release of  
subscribers  
from liability

(2) Where debentures of a municipal telephone system are outstanding, a subscriber who has fully paid his share of all instalments of principal and interest due or to become due under the debenture by-law, together with all other charges payable by him in respect of the system, may be released and discharged from all liability in respect of the system upon application to the Commission.

Idem

(3) Where telephone service of a municipal telephone system has been discontinued, any subscriber for such service, or any of his lands, may be released and discharged from all

Release on  
discon-  
tinuation  
of service



liability in respect of the system, other than liability under subsection 47 (4), upon application to the Commission.

Release  
on sale

(4) Where part only of the system has been sold or otherwise disposed of and where the moneys received by the system from the sale or disposition are equal to or exceed the proportion of the debenture debt, interest thereon, maintenance costs and other costs chargeable under this Act at the date of sale against lands within the part of the system so sold or disposed of, the subscribers within such part are released and discharged from all liability in respect of the system.

When  
subscriber-  
ship ceases

(5) Where, under this section, any subscriber is released and discharged from liability or the whole of the lands of a subscriber are released and discharged from liability, such subscriber ceases to be a subscriber.

Release  
subject to  
contract  
charges

(6) A release and discharge from liability under this section does not discharge any person from any liability that may arise under any contract for telephone service. R.S.O. 1970, c. 457, s. 60.

Inquiry as to  
sufficiency  
of rates

**61.**—(1) The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a municipal telephone system are sufficient to pay the cost of operation and maintenance of the system and the instalments of principal and interest on any outstanding debentures, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper.

How  
deficiency  
made up

(2) Where the revenues of a municipal telephone system are insufficient in any year to meet the cost of operation and maintenance of the system and the instalments of principal and interest falling due in such year on account of any outstanding debentures of the initiating municipality issued for the telephone system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by subscribers under this Act. R.S.O. 1970, c. 457, s. 61.

Validity  
of rate

**62.** Any question arising as to the validity of any special rate levied under this Act shall be determined by the Commission on an application to it for that purpose. R.S.O. 1970, c. 457, s. 62.

**63.** The council of the initiating municipality or the commissioners, as the case may be, may prescribe the terms on which a person not being a subscriber may have his premises connected with the system and the rate at which he may receive telephone service, and any such rate that heretofore has been approved by the Board or may hereafter be approved by the Commission may be collected in the same manner and with the same remedies as a rate due and unpaid by a subscriber, but such rate does not become a charge against the land. R.S.O. 1970, c. 457, s. 63.

Prescribing  
terms of  
connection

**64.** Until the control and management of a municipal telephone system is placed under commissioners, the system is under the control and management of the council of the initiating municipality. R.S.O. 1970, c. 457, s. 64.

Council to  
manage  
system

**65.**—(1) Upon the petition of a majority of the subscribers, the council of the initiating municipality shall place the telephone system under the control and management of commissioners to be designated "The Commissioners for the Telephone System of the Municipality of.....", a majority of whom may exercise all the powers of the commissioners.

Petition for  
management  
by commis-  
sioners

(2) Where the system is in the initiating municipality only, there shall be three or five commissioners and, where the system extends into one or more other municipalities, there shall be an odd number of commissioners, not less than three.

Number  
of commis-  
sioners

(3) Subject to subsection (2), the number of commissioners first elected shall be as specified in the petition.

Idem

(4) Subject to subsection (2), the commissioners may by by-law increase or decrease the number of commissioners, but no such by-law shall come into force until confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers, and if so confirmed such by-law shall not be amended or repealed until two annual elections have been held under it. R.S.O. 1970, c. 457, s. 65.

Increase or  
decrease in  
number of  
commis-  
sioners

**66.** Except as authorized under clause 71 (1) (d), the commissioners shall be elected each year at the annual general meeting of the subscribers or at a general meeting called for the purpose, and the commissioners shall hold office until their successors are elected. R.S.O. 1970, c. 457, s. 66.

Election  
of commis-  
sioners

## Eligibility

**67.**—(1) No person is eligible for election as a commissioner unless he is a subscriber to the municipal telephone system.

## Disqualification

(2) No assessor, collector, treasurer, clerk, auditor or member, other than the head, of the council of a municipality is eligible to be elected a commissioner. R.S.O. 1970, c. 457, s. 67.

## Vacancies

**68.** Where a commissioner resigns, dies or becomes incapacitated, the council of the initiating municipality shall immediately appoint a successor who shall hold office until the next general meeting of the subscribers. R.S.O. 1970, c. 457, s. 68.

## Powers of commissioners

**69.**—(1) Upon the election of the commissioners, the control and management of the municipal telephone system are vested in the commissioners and all the provisions of this Act relating to the initiating municipality and the council thereof in respect of the system, except in so far as they or any of them are by this Act expressly excepted, are applicable to the commissioners.

## Ownership of system and duties of initiating municipality

(2) The election of the commissioners does not affect the ownership of the system nor the authority and duty of the initiating municipality to provide from time to time all moneys required for the establishment and maintenance of the system and any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and special rates that may be due and owing from time to time by the subscribers. R.S.O. 1970, c. 457, s. 69.

## Security to be given by secretary, etc.

**70.** The commissioners may require the secretary or any other officer of the municipal telephone system to give such security as they require for the faithful performance of his duties and for the accounting for and paying over of all moneys that come into his possession or control. R.S.O. 1970, c. 457, s. 70.

## By-laws

**71.**—(1) The commissioners may pass by-laws to provide for and regulate,

- (a) the time and place at which meetings of subscribers shall be held and the manner of calling and the procedure at meetings;
- (b) the manner of election, duties and remuneration of the commissioners;
- (c) the control and management of the system;

- (d) the term of office of the commissioners by extending the term to three years so that at the first election of commissioners for a term of three years one or more of them shall hold office for a term of one year only, one or more of them for a term of two years and the remaining one or more for a term of three years,

but such by-laws shall not come into force until approved by the Commission and confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers. R.S.O. 1970, c. 457, s. 71 (1).

- (2) A by-law under clause (1) (b) providing for and regulating the remuneration of the commissioners does not require the approval of the Ministry of Intergovernmental Affairs under section 250 of the *Municipal Act*. R.S.O. 1970, c. 457, s. 71 (2); 1972, c. 3, s. 17 (2). Remuneration of commissioners  
R.S.O. 1980, c. 302

**72.** Upon the petition of a majority of the subscribers of a municipal telephone system praying that the council of the initiating municipality take over the control and management of the system, the council shall pass a by-law for that purpose, and thereupon the commissioners shall hand over to the council, or some official designated by it, all the property of the system, including all moneys, vouchers, books, papers, documents and memoranda relating to the system, and thereafter the control and management of the system is vested in the initiating municipality and the council thereof. R.S.O. 1970, c. 457, s. 72. Assumption of control by council of system operated by commissioners

**73.** Every municipal telephone system shall hold a general meeting of its subscribers in each year not later than the 1st day of April or at such time later in each year as is approved by the Commission. R.S.O. 1970, c. 457, s. 73. Annual meeting

**74.—(1)** Not less than ten days before the day fixed for holding the annual general meeting, a financial statement shall be sent by first-class prepaid mail or delivered to each subscriber, to each member of the council of the initiating municipality and to the Commission containing, Financial statement to be sent to subscribers

- (a) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;
- (b) a statement of the income and expenditure of the system for the financial year ending on the 31st day of December last past;



(c) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;

(d) such other information respecting the system as the by-law requires or the Commission prescribes.

Statement  
to be  
submitted  
to meeting

(2) The financial statement mentioned in subsection (1) shall be submitted to the subscribers at the annual general meeting. R.S.O. 1970, c. 457, s. 74.

Notice

**75.**—(1) In default of other express provision in the by-laws of the system, notice of the time and place of holding any general meeting of the subscribers shall be given at least ten days before the meeting by first-class prepaid mail or by delivery to each subscriber and to each member of the council of the initiating municipality.

Sending  
notices

(2) Notices calling a general meeting of the subscribers and the financial statement shall be sent by the commissioners or by their secretary or other officer and, where the system is under the control and management of the council, by the clerk of the initiating municipality.

Business to  
be stated

(3) The notice calling a general meeting of the subscribers shall state the business that is to be transacted at it. R.S.O. 1970, c. 457, s. 75.

General  
meeting  
called on  
requisition

**76.**—(1) Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer or, where the system is under the control and management of the council, the clerk of the initiating municipality shall forthwith call a general meeting of the subscribers for the transaction of the business mentioned in the requisition.

General  
meeting  
called by  
subscribers

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was sent or delivered to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves, by notice as provided in section 75, call a general meeting of the subscribers for the transaction of the business. R.S.O. 1970, c. 457, s. 76.

General  
meeting  
called by  
council, etc.

**77.** The council of the initiating municipality or the commissioners, as the case may be, may of their own motion call a general meeting of the subscribers for the transaction of any business. R.S.O. 1970, c. 457, s. 77.

**78.** No person is entitled to vote at a general meeting of a municipal telephone system unless he is a subscriber to the system, but any member of the council of the initiating municipality may attend any general meeting and take part in the deliberations thereat, but shall not vote unless he is a subscriber. R.S.O. 1970, c. 457, s. 78.

Who may  
vote at  
general  
meeting

**79.**—(1) The presence in person of not fewer than five subscribers representing in person or by proxy at least one-tenth of all the subscribers is necessary to constitute a quorum at a general meeting of the subscribers of a municipal telephone system, and the instrument appointing a proxy shall be in writing under the hand of the appointer or, if such appointer is a corporation, under its seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber.

Quorum

(2) Where a quorum is not present one hour after the time a general meeting has been called, the meeting shall be adjourned for one week at the same time and place and those subscribers present at the second meeting constitute a quorum. R.S.O. 1970, c. 457, s. 79.

Quorum not  
required

**80.** Where a municipal telephone system is under the control and management of the initiating municipality, the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system, and, where the system is under the control and management of commissioners, the several officials respectively shall do and perform the acts, matters and things in like manner unless relieved therefrom by the commissioners. R.S.O. 1970, c. 457, s. 80.

Duties of  
municipal  
officials of  
initiating  
municipality

**81.**—(1) Where a municipal telephone system extends into a municipality other than the initiating municipality, the clerk of the initiating municipality shall,

Duties where  
system  
extended  
to another  
municipality

- (a) forthwith after its passing, transmit to the clerk of the other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situated in the other municipality; and
- (b) when so required by the initiating municipality or the commissioners, as the case may be, transmit to the clerk of the other municipality, on or before such date as the council of the other municipality by by-law prescribes, the amount in respect of the debentures and the cost of maintenance payable by each such subscriber.

Collection  
of rates

(2) The amount payable by each subscriber shall be placed on the collector's roll and shall be collected in the same manner as municipal taxes and paid over to the treasurer of the initiating municipality at the end of each month. R.S.O. 1970, c. 457, s. 81.

Remunera-  
tion of  
municipal  
officials

**82.** The initiating municipality or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of the initiating municipality and to the clerk, treasurer and collector of any other municipality into which its system extends a reasonable remuneration for the services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official performing the service and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Commission on an application to it for that purpose. R.S.O. 1970, c. 457, s. 82.

Breach of  
duties by  
municipal  
officials

**83.** The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing required of him by this Act or by order of the Commission directed to be done and performed by them respectively is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 457, s. 83.

Books to  
be kept

**84.—**(1) The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of account to be kept containing full and true statements of,

- (a) the financial transactions of the system;
- (b) the assets of the system;
- (c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;
- (d) the credits and liabilities of the system;
- (e) the name of every subscriber and the location of his subscribed property,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or commissioners and of subscribers verified by the signature of the head of the council, the chairman of the commissioners or other presiding officer, as the case may be.

Deposit and  
withdrawal  
of moneys

(2) All moneys received in respect of the system shall be deposited forthwith in a chartered bank in an account in the name of the system and all expenditures in respect of the

system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality or such other two signing officers as the council appoints or, where the system is under the control and management of commissioners, by the chairman and treasurer or such other two signing officers as the commissioners appoint. R.S.O. 1970, c. 457, s. 84.

**85.** The accounts and transactions of a municipal telephone system shall be audited at least once in every year by the municipal auditor or auditors appointed and compensated as provided in section 88 of the *Municipal Act*. R.S.O. 1970, <sup>Audit of accounts</sup> R.S.O. 1980, c. 302, c. 457, s. 85.

**86.** No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a municipal telephone system or in the exercise of any of the powers conferred by this Act after the lapse of six months from the time when the cause of action arose. R.S.O. 1970, <sup>Limitation of actions</sup> c. 457, s. 86.

**87.** Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own a telephone system and using or proposing to use a public highway or highways for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall secure letters patent or articles of incorporation creating them a corporation with share capital for the purpose of carrying on the business of a telephone company. R.S.O. 1970, c. 457, s. 87. <sup>Partnerships and unincorporated associations to be incorporated</sup>

**88.** No by-law, special by-law or special resolution, as defined in the *Business Corporations Act* or the *Corporations Act*, whichever is applicable, of an incorporated telephone company hereafter passed has any force or effect until approved by the Commission and every such company shall cause such by-laws, special by-laws and special resolutions to be kept available for inspection at the head office of the company. R.S.O. 1970, c. 457, s. 88. <sup>By-laws to be approved by Commission</sup> R.S.O. 1980, cc. 54, 95

**89.—(1)** Every telephone system shall furnish continuous telephone service that adequately and efficiently meets the needs of the public in the territory in which it operates. <sup>Proper service to be given</sup>

**(2)** Any person who is not satisfied with the service rendered may lodge a complaint with the Commission with respect thereto and the Commission may order the system complained against to take such action as the Commission considers necessary. <sup>Complaints</sup>



Termination  
of service

(3) Where a person supplied with telephone service is in default of payment of any rate or toll in respect of a service, the system may terminate the service upon giving the person seven days notice thereof in writing. R.S.O. 1970, c. 457, s. 89.

Orders  
to ensure  
proper  
service

**90.** The Commission may make such orders for the construction and maintenance of a plant as it from time to time considers necessary in order to ensure adequate and efficient telephone service to the public and for the protection of life and property. R.S.O. 1970, c. 457, s. 90.

Equipment  
ownership

**91.** Every telephone system shall own and maintain all equipment, except run-off poles on private property, operated in connection with the system, unless otherwise consented to by the Commission. R.S.O. 1970, c. 457, s. 91.

Duplication  
of pole leads  
on highways

**92.** No telephone system shall erect poles upon or along or adjacent to and parallel with any part of a highway upon or along which the pole leads of another system are already erected, or otherwise by means of its plant or any part thereof duplicate the plant of or compete with any other system that furnishes telephone service in the same locality in which the first-mentioned system proposes to furnish such service, unless by consent of the Commission. R.S.O. 1970, c. 457, s. 92.

Use of pole  
leads by two  
or more  
systems

**93.** Where in the opinion of the Commission the convenience of persons desiring telephone service requires the extension of a telephone system upon or along a highway, upon or along which there is already a telephone pole lead, the Commission may make such order as it considers expedient for authorizing the extension and consolidating the pole leads upon or along the highway. R.S.O. 1970, c. 457, s. 93.

Telephone  
service to  
be furnished  
on request

**94.** Notwithstanding anything in this Act, where a person makes application to a telephone system for telephone service, the system shall furnish such service upon terms to be agreed upon and, failing agreement, upon such terms and conditions as are ordered by the Commission. R.S.O. 1970, c. 457, s. 94.

Erection of  
poles on  
highways

**95.** Where it is necessary for the purpose of carrying into effect an order of the Commission that a telephone system should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or township, the system may, notwithstanding any limitations in any letters patent, articles of incorporation or otherwise, erect the poles, cables, ducts and wires upon or along the road or highway upon such terms and conditions as are agreed upon between the council of the municipality

and the system, and, if the council and the system are unable to agree, then upon such terms and conditions as the Commission prescribes. R.S.O. 1970, c. 457, s. 95.

**96.**—(1) A telephone system may enter into an agreement with any other system, whether the latter system is under the jurisdiction of the Legislature or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and other plant controlled, owned or operated by the systems and for the transmission of business between the systems, and for the interchange of messages passing to, from or over their lines and other plant, and for the apportionment of tolls, commissions and expenditures and the division of receipts and profits and generally for the regulation, management and operation of their lines and other plant, but no such agreement has any validity or effect until approved by the Commission. R.S.O. 1970, c. 457, s. 96.

Agreements  
for connec-  
tion, joint  
operation,  
etc.

(2) Where it is in the public interest for two or more telephone systems to enter into an agreement under subsection (1) and the parties to the proposed agreement are unable to agree on the terms that are to be included in the agreement, any telephone system having an interest in the proposed agreement may apply to the Commission, and the Commission, after such inquiry as it considers necessary, may direct specified terms to be included in the agreement.

Idem

(3) On an application for approval of an agreement entered into under subsection (1), the Commission, after such inquiry as it considers necessary, may make any amendment to the agreement that it considers to be in the public interest. 1980, c. 7, s. 1.

Amending  
agreement

**97.** Where the lines or other parts of the plant of two or more telephone systems are situated in such proximity to each other as to make it expedient in the public interest that they be connected in order that there be intercommunication between them or joint operation or reciprocal use of them or that the lines or other plant be used jointly by the systems for the transmission of messages and either or any of the systems fail or refuse to enter into an agreement with the other or others, the Commission shall order,

Commission  
may order  
connection,  
joint  
operations,  
etc.

- (a) that such connection be made;
- (b) by whom and in what manner any line or works necessary for the purpose of making the connection shall be constructed and maintained;
- (c) how the cost incurred in constructing and maintaining it or them shall be borne; and

- (d) upon such terms and conditions as the Commission may prescribe, that there shall be such intercommunication between or joint operation or reciprocal use of, and such transmission of messages by or over, the lines or other plant, including any connecting lines or works as the Commission may prescribe. R.S.O. 1970, c. 457, s. 97.

Intercom-  
munication  
by systems

**98.**—(1) Where the lines of one or more telephone systems terminate on the switchboard of another system, the other system shall furnish all reasonable and proper facilities for the interchange of conversations between the systems.

What  
facilities  
to be used

(2) The facilities to be so afforded shall include the providing of suitable switching facilities to connect the lines of the systems and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.

Terms

(3) The terms upon which the facilities for the interchange of conversation between two or more systems are to be afforded under this section shall be fixed by agreements between the systems concerned, subject to the approval of the Commission, and, failing such agreement, they shall be fixed by the Commission. R.S.O. 1970, c. 457, s. 98.

Intercom-  
munication  
between  
federal and  
provincial  
systems

**99.** Where the lines or other parts of the plant of a telephone system under the jurisdiction of the Legislature and the lines or other parts of the plant of a system under the jurisdiction of the Parliament of Canada are situate in such proximity to each other as to make it practicable for the lines or other parts of the plant to be so connected as to provide direct communication whenever required between any telephone on the one system and any telephone on the other system, either of the systems or any municipal corporation or other public body or any person interested may file with the Commission and with the Canadian Transport Commission an application for an order that such connection be made together with evidence of service of the application upon the systems interested or affected and clauses 131 (1) (b), (c), (d) and (e) of *The Railways Act* apply with necessary modifications to every such application. R.S.O. 1970, c. 457, s. 99.

R.S.O. 1950,  
c. 331

Use of  
highways

**100.**—(1) No telephone system shall place in, upon, over or under any highway, lane or square under the jurisdiction of the council of a municipality any poles, cables, ducts, wires or other structures or equipment without having acquired the right so to do.

(2) Notwithstanding the provisions of any other Act and with the approval of the Commission, the council of any municipality may pass a by-law or by-laws for granting to a system, upon such terms and conditions as are considered expedient, the right to use any highway, square or lane under its jurisdiction for placing in, upon, over or under the same poles, cables, ducts, wires or other structures or equipment, but no such by-law comes into force until approved by the Commission.

Grants of  
right to use  
highways

(3) Where the council and the system are unable to agree as to the terms and conditions upon which such right is to be granted, the council or the system may refer the matters in dispute to the Commission in which case the Commission, after hearing the evidence of all persons interested, may prescribe the terms and conditions, and thereupon the terms and conditions are binding upon the municipality and the system.

Commission  
to determine  
differences  
as to use of  
highways

(4) Where a system fails to comply with any provision of this Act or the regulations or any order of the Commission, the Commission may terminate any right conferred upon the system under this section, in which case the by-law granting the right shall be deemed to be repealed.

Termination  
of right

(5) Upon the termination of any right conferred upon a system under this section in accordance with the terms and conditions of the by-law granting the right or in accordance with an order of the Commission, the council may, with the approval of the Commission, order the system to remove its poles, cables, ducts, wires and other structures and equipment from the highways, squares and lanes under the jurisdiction of the council and, upon failing to comply with the order within ninety days, the council may remove the poles, cables, ducts, wires and other structures and equipment and charge the cost thereof to the system. R.S.O. 1970, c. 457, s. 100.

Effect of  
termination  
of right

**101.** The right to use, for the purposes of section 100, any highway or road allowance situated in territory without municipal organization may be granted by the Minister of Natural Resources upon such terms and conditions and subject to such rentals or charges as he may determine. R.S.O. 1970, c. 457, s. 101; 1972, c. 4, s. 12.

Right to use  
highways in  
unorganized  
territory

**102.—**(1) A telephone system shall not enter into an agreement with any other system that may have the effect of increasing the cost of telephone service to the public until the proposed agreement has been submitted to and approved by the Commission.

Agreements  
increasing  
cost of  
service



Application  
of section

(2) This section does not apply to an agreement in relation to a matter to which section 103 applies. R.S.O. 1970, c. 457, s. 102.

Sales or  
transfers of  
systems,  
etc.

**103.** No telephone system and no part of a system or controlling interest in a system shall be sold or disposed of and no system shall be amalgamated with another system and no system shall enter into an agreement that in effect transfers its ownership or control until the Commission has approved the sale or other disposition, amalgamation or agreement. R.S.O. 1970, c. 457, s. 103.

Termination  
of powers  
of system

**104.** The Commission may by its order terminate any of the rights, powers and privileges possessed by or conferred upon any telephone system under this Act, if the system contravenes section 102 or 103, and may by its order prohibit the system from carrying on business under this Act. R.S.O. 1970, c. 457, s. 104.

Tariffs and  
tolls to be  
filed and  
approved

**105.**—(1) Every telephone system shall file with the Commission its tariff of rates and tolls in such form and containing such particulars as the Commission requires and no system or municipality shall charge or levy any rate or toll that has not been filed with and approved by the Commission.

Public  
hearing

(2) Where the Commission is of the opinion that a change in a tariff of rates and tolls should not be approved without a public hearing, it shall give written notice of the time and place of the hearing to the telephone system desiring the change, and the telephone system shall, unless the Commission orders otherwise, publish, once a week for two successive weeks immediately preceding the hearing, notice of the hearing in a newspaper having general circulation in the municipality or municipalities where the change in the tariff is sought. R.S.O. 1970, c. 457, s. 105.

Prohibition  
against dis-  
crimination  
as to tolls,  
free service

**106.** There shall be no discrimination by any telephone system in favour of or against any person furnished with telephone service by the system by way of reduction or increase in any rate or toll, and no system shall without the approval of the Commission furnish free telephone service to any person. R.S.O. 1970, c. 457, s. 106.

Offence

**107.** Every officer of a telephone system who wilfully authorizes or permits any contravention of section 105 or 106 is guilty of an offence and on conviction is liable to a fine of not more than \$50 for each offence. R.S.O. 1970, c. 457, s. 107.

**108.**—(1) Every telephone system shall provide and maintain a proper and adequate depreciation fund and for that purpose shall set aside each year a proportion of its earnings and the fund so provided shall, unless otherwise authorized by the Commission, be applied exclusively to meet the cost of the renewal and replacement of such part of the plant of the system as may be rendered necessary by age, wear and tear, obsolescence, damage by storm or other contingency and the Commission may require the system to make such changes in the rate of depreciation from time to time as the Commission considers expedient. Depreciation fund

(2) The moneys carried to the credit of the depreciation fund shall, unless the Commission otherwise directs, be deposited in a chartered bank at interest and, Deposit, investment and application of fund

(a) may be invested in such securities as trustees may invest in under the *Trustee Act*; or

R.S.O. 1980,  
c. 512

(b) may, with the approval of the Commission, be expended in new construction or extensions or additions to the system.

(3) All earnings accruing from any part of the depreciation fund deposited or invested as provided in subsection (2) shall from time to time be carried to the credit of the depreciation fund. Interest R.S.O. 1970, c. 457, s. 108.

**109.**—(1) A telephone system shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof until it has obtained from the Commission an order authorizing the issue and the amount thereof and stating the purposes to which the issue or proceeds thereof are to be applied and that in the opinion of the Commission the money, property or labour to be procured or paid for by the issue of the stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order. Approval of issue of stock, bonds, notes, etc.

(2) Every officer of a system who wilfully authorizes or permits any contravention of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50 for each offence. Offence R.S.O. 1970, c. 457, s. 109.

**110.**—(1) Every person who uses or interferes with or permits to be used or interfered with any telephone instrument, wiring or other equipment so as to injure or damage it or prevent the proper use of the circuit to which the telephone instrument, wiring or other equipment is Prohibition against interference with instruments

connected is guilty of an offence and on conviction is liable to a fine of not more than \$50 for each offence.

Idem

(2) Every officer of a telephone system who wilfully authorizes or permits any contravention of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50 for each offence. R.S.O. 1970, c. 457, s. 110.

Employees  
divulging  
conversations

**111.** Every operator or other person in the employ of a telephone system who divulges the purport or substance of any telephone conversation or message passing over the lines of the system, except when lawfully authorized or directed so to do, is guilty of an offence and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1970, c. 457, s. 111.

Persons  
other than  
employees  
divulging  
conversations

**112.** Every person who, having acquired knowledge of any conversation or message passing over any telephone line not addressed to or intended for such person, divulges the purport or substance of the conversation or message, except when lawfully authorized or directed so to do, is guilty of an offence and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1970, c. 457, s. 112.

Using  
obscene  
language

**113.** Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, uses indecent, obscene, blasphemous or grossly insulting language is guilty of an offence and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1970, c. 457, s. 113.

Refusal to  
give up line

**114.** Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, refuses to give up or permit the use of the line when requested so to do by the operator or by any other person in case of a fire, accident, sickness or other similar emergency is guilty of an offence and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1970, c. 457, s. 114.

Annual  
returns

**115.**—(1) Every telephone system shall, on or before the 1st day of April in each year or, in the case of any one or more systems, at such later time in any year as the Commission approves, furnish to the Commission a return containing such particulars respecting the cost, receipts, expenditures,

operation, management and equipment of the system as the Commission requires.

(2) Every officer of a system who authorizes or acquiesces in any default in making a return under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50 for each day during which the default continues. R.S.O. 1970, c. 457, s. 115. Offence

**116.** The *Bulk Sales Act* does not apply to the sale of a telephone system or a part thereof under this Act. R.S.O. 1970, c. 457, s. 116. R.S.O. 1980,  
c. 52, not  
to apply

**117.—(1)** In this section, “communication service” means any form of communication by electrical currents or impulses conducted by wires, cables or radio, other than telephone service. Interpre-  
tation

(2) Where a communication service may be conveniently provided in conjunction with telephone service and all provisions of any Act of the Legislature or the Parliament of Canada respecting such communication service have been complied with, Municipality  
may provide  
communica-  
tion service

(a) the council of a municipality that is carrying on a telephone system as a public utility; or

(b) the council of an initiating municipality or the commissioners of a municipal telephone system, as the case may be,

may, with the approval of the Commission, provide the communication service as part of the telephone system.

(3) Where approval of the Commission has been given under subsection (2), By-law  
authorizing  
work and  
issue of  
debentures

(a) the council of a municipality that is carrying on a telephone system as a public utility may, with the prior approval of the Board, pass a by-law authorizing the work and the issuing of debentures for that purpose but such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under the *Municipal Act*; or

R.S.O. 1980,  
c. 302

(b) the council of an initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and with the prior approval of the Board, pass a by-law



authorizing the work and the issuing of debentures for that purpose and it is not necessary that the by-law be submitted for the assent of the electors.

How cost  
paid

(4) The Board shall determine the period within which the debentures to be issued shall be made payable and, in the case of a by-law made under clause (3) (b), the landowners who shall defray the cost of such works and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

Provisions  
of Act to  
apply

(5) The provisions of this Act as to debentures apply to debentures issued under this section. R.S.O. 1970, c. 457, s. 117.

## CHAPTER 497

## Territorial Division Act

1. The territorial division of Ontario into counties and districts and metropolitan and regional areas shall continue as hereinafter set forth, and, subject to sections 4, 5, 6, 7 and 8, for municipal and judicial purposes such counties, and for judicial purposes such districts and metropolitan and regional areas, are respectively composed as follows:

[NOTE: *As to municipal and judicial purposes in provincial parks, see the Provincial Parks Act, R.S.O. 1980, c. 401, s. 3 (5, 6).*]

## 1.—THE COUNTY OF BRANT

Brant

consists of,

- (a) the City of Brantford;
- (b) the Town of Paris;
- (c) the townships of,

Brantford,  
Burford,  
Oakland,

Onondaga,  
South Dumfries,  
Tuscarora,

except that the Township of Tuscarora continues to be withdrawn from and does not form part of the County of Brant for municipal purposes.

## 2.—THE COUNTY OF BRUCE

Bruce

consists of,

- (a) the towns of Chesley, Kincardine, Port Elgin, Southampton, Walkerton, Wiarton;
- (b) the villages of Hepworth, Lion's Head, Lucknow, Mildmay, Paisley, Ripley, Tara, Teeswater, Tiverton;

(c) the townships of,

Albemarle,	Elderslie,
Amabel,	Greenock,
Arran,	Huron,
Brant,	Kincardine,
Bruce,	Kinloss,
Carrick,	Lindsay,
Culross,	St. Edmunds,
Eastnor,	Saugeen.

The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

The Indian Reserve at Chief's Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel.

Dufferin

### 3.—THE COUNTY OF DUFFERIN

consists of,

- (a) the towns of Orangeville, Shelburne;
- (b) the Village of Grand Valley;
- (c) the townships of,

Amaranth,	Melancthon,
East Garafraxa,	Mono,
East Luther,	Mulmur.

Dundas

### 4.—THE COUNTY OF DUNDAS

consists of,

- (a) the villages of Chesterville, Iroquois, Morrisburg, Winchester;
- (b) the townships of,

Matilda,	Williamsburgh,
Mountain,	Winchester.

Durham

### 5.—THE REGIONAL MUNICIPALITY OF DURHAM

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Durham Act*.

## 6.—THE COUNTY OF ELGIN

Elgin

consists of,

- (a) the City of St. Thomas;
- (b) the Town of Aylmer;
- (c) the villages of Belmont, Dutton, Port Burwell, Port Stanley, Rodney, Springfield, Vienna, West Lorne;
- (d) the townships of,

Aldborough,	South Dorchester,
Bayham,	Southwold,
Dunwich,	Yarmouth.
Malahide,	

## 7.—THE COUNTY OF ESSEX

Essex

consists of,

- (a) the City of Windsor;
- (b) the towns of Amherstburg, Belle River, Essex, Harrow, Kingsville, Leamington, Tecumseh;
- (c) the Village of St. Clair Beach;
- (d) the townships of,

Anderdon,	Mersea,
Colchester North,	Pelee,
Colchester South,	Rochester,
Gosfield North,	Sandwich South,
Gosfield South,	Sandwich West,
Maidstone,	Tilbury North,
Malden,	Tilbury West,

except that the Township of Pelee continues to be separate, for municipal purposes, from the County of Essex.

Middle Sister Island, North Harbour Island, East Sister Island, Hen Island, Big Chicken Island, Little Chicken Island, and Middle Island together with all lands and water in Lake Erie within one mile of the shore of Pelee Island form part of the Township of Pelee.

Certain  
islands  
included in  
Township of  
Pelee



Frontenac

## 8.—THE COUNTY OF FRONTENAC

consists of,

(a) the City of Kingston;

(b) the townships of,

Barrie,	Palmerston and North
Bedford,	and South Canonto,
Clarendon and Miller,	Pittsburgh,
Hinchinbrooke,	Portland,
Howe Island,	Storrington,
Kennebec,	Wolfe Island (including
Kingston,	Garden Island,
Loughborough,	Simcoe Island, Horse-
Olden,	shoe Island and Mud
Oso,	Island).

Glengarry

## 9.—THE COUNTY OF GLENGARRY

consists of,

(a) the Town of Alexandria;

(b) the villages of Lancaster, Maxville;

(c) the townships of,

Charlottenburgh,	Lancaster,
Kenyon,	Lochiel.

Grenville

## 10.—THE COUNTY OF GRENVILLE

consists of,

(a) the separated Town of Prescott;

(b) the Town of Kemptville;

(c) the villages of Cardinal, Merrickville;

(d) the townships of,

Augusta,	South Gower,
Edwardsburgh,	Wolford.
Oxford (on Rideau),	

## 11.—THE COUNTY OF GREY

Grey

consists of,

- (a) the City of Owen Sound;
- (b) the towns of Durham, Hanover, Meaford, Thornbury;
- (c) the villages of Chatsworth, Dundalk, Flesherton, Markdale, Neustadt, Shallow Lake;
- (d) the townships of,

Artemesia,	Keppel,
Bentinck,	Normanby,
Collingwood,	Osprey,
Derby,	Proton,
Egremont,	St. Vincent,
Euphrasia,	Sarawak,
Glenelg,	Sullivan,
Holland,	Sydenham.

12.—THE REGIONAL MUNICIPALITY OF  
HALDIMAND-NORFOLKHaldimand-  
Norfolk

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Haldimand-Norfolk Act*.

R.S.O. 1980,  
c. 435

## 13.—THE REGIONAL MUNICIPALITY OF HALTON

Halton

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Halton Act*.

R.S.O. 1980,  
c. 43614.—THE REGIONAL MUNICIPALITY OF  
HAMILTON-WENTWORTHHamilton-  
Wentworth

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Hamilton-Wentworth Act*.

R.S.O. 1980,  
c. 437

## 15.—THE COUNTY OF HASTINGS

Hastings

consists of,

- (a) the cities of Belleville, Trenton;

- (b) the Town of Deseronto;
- (c) the villages of Bancroft, Deloro, Frankford, Madoc, Marmora, Stirling, Tweed;
- (d) the townships of,
- (e) the townships of,
 

Bangor, Wicklow and	Madoc,
McClure,	Marmora and Lake,
Carlow,	Mayo,
Dungannon,	Monteagle,
Elzevir and	Rawdon,
Grimsthorpe,	Sidney,
Faraday,	Thurlow,
Herschel,	Tudor and Cashel,
Hungerford,	Tyendinaga,
Huntingdon,	Wollaston.
Limerick,	

Huron

## 16.—THE COUNTY OF HURON

consists of,

- (a) the towns of Clinton, Exeter, Goderich, Seaforth, Wingham;
- (b) the villages of Bayfield, Blyth, Brussels, Hensall, Zurich;
- (c) the townships of,

Ashfield,	McKillop,
Colborne,	Morris,
East Wawanosh,	Stanley,
Goderich,	Stephen,
Grey,	Tuckersmith,
Hay,	Turnberry,
Howick,	Usborne,
Hullett,	West Wawanosh.

Kent

## 17.—THE COUNTY OF KENT

consists of,

- (a) the City of Chatham;
- (b) the towns of Blenheim, Bothwell, Dresden, Ridgetown, Tilbury, Wallaceburg;

(c) the villages of Erieau, Erie Beach, Highgate, Thamesville, Wheatley;

(d) the townships of,

Camden,	Orford,
Chatham,	Raleigh,
Dover,	Romney,
Harwich,	Tilbury East,
Howard,	Zone.

#### 18.—THE COUNTY OF LAMBTON

Lambton

consists of,

(a) the City of Sarnia;

(b) the towns of Forest, Petrolia;

(c) the villages of Alvinston, Arkona, Courtright, Grand Bend, Oil Springs, Point Edward, Thedford, Watford, Wyoming;

(d) the townships of,

Bosanquet,	Sarnia,
Brooke,	Sombra (including Wal-
Dawn,	pole Island, St. Anne's
Enniskillen,	Island and the other
Euphemia,	islands at the mouth
Moore,	of the St. Clair River),
Plympton,	Warwick.

#### 19.—THE COUNTY OF LANARK

Lanark

consists of,

(a) the towns of Almonte, Carleton Place, Perth;

(b) the separated Town of Smiths Falls;

(c) the Village of Lanark;

(d) the townships of,



Bathurst,	Montague,
Beckwith,	North Burgess,
Darling,	North Elmsley,
Drummond,	Pakenham,
Lanark,	Ramsay,
Lavant, Dalhousie	South Sherbrooke.
and North	
Sherbrooke,	

Leeds

## 20.—THE COUNTY OF LEEDS

consists of,

- (a) the City of Brockville;
- (b) the separated town of Gananoque;
- (c) the villages of Athens, Newboro', Westport;
- (d) the townships of,

Bastard and South	North Crosby,
Burgess,	Rear of Leeds and
Elizabethtown,	Lansdowne,
Front of Escott,	Rear of Yonge and
Front of Leeds and	Escott,
Lansdowne,	South Crosby,
Front of Yonge,	South Elmsley.
Kitley,	

Lennox and  
Addington

## 21.—THE COUNTY OF LENNOX AND ADDINGTON

consists of,

- (a) the Town of Napanee;
- (b) the villages of Bath, Newburgh;
- (c) the townships of,

Adolphustown,	Kaladar, Anglesea and
Amherst Island,	Effingham,
Camden East,	North Fredericksburgh,
Denbigh, Abinger and	Richmond,
Ashby,	Sheffield,
Ernestown,	South Fredericksburgh.

## 22.—THE COUNTY OF MIDDLESEX

Middlesex

consists of,

- (a) the City of London;
- (b) the towns of Parkhill, Strathroy;
- (c) the villages of Ailsa Craig, Glencoe, Lucan, Newbury, Wardsville;
- (d) the townships of,

Adelaide,  
Biddulph,  
Caradoc,  
Delaware,  
East Williams,  
Ekfrid,  
Lobo,  
London,

McGillivray,  
Metcalf,  
Mosa,  
North Dorchester,  
Westminster,  
West Nissouri,  
West Williams.

23.—THE REGIONAL MUNICIPALITY  
OF NIAGARA

Niagara

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Niagara Act*. R.S.O. 1980,  
c. 438

## 24.—THE COUNTY OF NORTHUMBERLAND

Northum-  
berland

consists of,

- (a) the towns of Campbellford, Coburg, Port Hope;
- (b) the villages of Brighton, Colborne, Hastings;
- (c) the townships of,

Alnwick,  
Brighton,  
Cramahe,  
Haldimand,  
Hamilton,

Hope,  
Murray,  
Percy,  
Seymour.

Ottawa-  
Carleton

## 25.—THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

R.S.O. 1980,  
c. 439

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Ottawa-Carleton Act*.

Oxford

## 26.—THE COUNTY OF OXFORD

consists of,

- (a) the City of Woodstock;
- (b) the towns of Ingersoll and Tillsonburg;
- (c) the townships of,

Blandford-Blenheim,  
East Zorra-Tavistock,  
Norwich,  
South-West Oxford,  
Zorra.

Peel

## 27.—THE REGIONAL MUNICIPALITY OF PEEL

R.S.O. 1980,  
c. 440

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Peel Act*.

Perth

## 28.—THE COUNTY OF PERTH

consists of,

- (a) the City of Stratford;
- (b) the towns of Listowel, Mitchell;
- (c) the separated Town of St. Marys;
- (d) the Village of Milverton;
- (e) the townships of,

Blanshard,	Hibbert,
Downie (including the	Logan,
Gore of Downie),	Mornington,
Ellice,	North Easthope,
Elma,	South Easthope,
Fullarton,	Wallace.

## 29.—THE COUNTY OF PETERBOROUGH

Peter-  
borough

consists of,

- (a) the City of Peterborough;
- (b) the villages of Havelock, Lakefield, Millbrook, Norwood;
- (c) the townships of,

Asphodel,	Ennismore,
Belmont and Methuen,	Galway and Cavendish,
Burleigh and	Harvey,
Anstruther,	North Monaghan,
Cavan,	Otonabee,
Chandos,	Smith,
Douro,	South Monaghan.
Dummer,	

## 30.—THE COUNTY OF PRESCOTT

Prescott

consists of,

- (a) the towns of Hawkesbury, Vankleek Hill;
- (b) the villages of Alfred, L'Orignal, Plantagenet, St. Isidore de Prescott;
- (c) the townships of,

Alfred,	North Plantagenet,
Caledonia,	South Plantagenet,
East Hawkesbury,	West Hawkesbury.
Longueuil,	

## 31.—THE COUNTY OF PRINCE EDWARD

Prince  
Edward

consists of,

- (a) the Town of Picton;
- (b) the villages of Bloomfield, Wellington;
- (c) the townships of,

Ameliasburgh,	North Marysburgh,
Athol,	Sophiasburgh,
Hallowell,	South Marysburgh.
Hillier,	



Renfrew

## 32.—THE COUNTY OF RENFREW

consists of,

- (a) the City of Pembroke;
- (b) the towns of Arnprior, Deep River, Renfrew;
- (c) the villages of Barry's Bay, Beachburg, Braeside, Chalk River, Cobden, Eganville, Killaloe Station, Petawawa;
- (d) the townships of,

Admaston,	Pembroke,
Alice and Fraser,	Petawawa,
Bagot and Blithfield,	Radcliffe,
Bromley,	Raglan,
Brougham,	Rolph, Buchanan,
Brudenell and Lyndoch,	Wylie and McKay,
Grattan,	Ross,
Griffith and	Sebastopol,
Matawatchan,	Sherwood, Jones and
Hagarty and Richards,	Burns,
Head, Clara and Maria,	South Algona,
Horton,	Stafford,
McNab,	Westmeath,
North Algona,	Wilberforce.

Russell

## 33.—THE COUNTY OF RUSSELL

consists of,

- (a) the Town of Rockland;
- (b) the Village of Casselman;
- (c) the townships of,

Cambridge,	Russell.
Clarence,	

Simcoe

## 34.—THE COUNTY OF SIMCOE

consists of,

- (a) the cities of Barrie and Orillia;
- (b) the towns of Alliston, Bradford, Collingwood, Midland, Penetanguishene, Stayner, Wasaga Beach;

(c) the villages of Beeton, Coldwater, Cookstown, Creemore, Elmvale, Port McNicoll, Tottenham, Victoria Harbour;

(d) the townships of,

Adjala,	Oro,
Essa,	Rama,
Flos,	Sunnidale,
Innisfil,	Tay,
Mara,	Tecumseth,
Matchedash,	Tiny,
Medonte,	Tosorontio,
Nottawasaga,	Vespra,
Orillia,	West Gwillimbury.

### 35.—THE COUNTY OF STORMONT

Stormont

consists of,

(a) the City of Cornwall;

(b) the Village of Finch;

(c) the townships of,

Cornwall,	Osnabruck,
Finch,	Roxborough.

### 36.—THE MUNICIPALITY OF METROPOLITAN TORONTO

Toronto

consists of the municipalities from time to time included within the Metropolitan Area as defined in the *Municipality of Metropolitan Toronto Act*. R.S.O. 1980, c. 314

### 37.—THE COUNTY OF VICTORIA

Victoria

consists of,

(a) the Town of Lindsay;

(b) the villages of Bobcaygeon, Fenelon Falls, Omemee, Sturgeon Point, Woodville;

(c) the townships of,

Bexley,	Manvers,
Carden,	Mariposa,
Dalton,	Ops,
Eldon,	Somerville,
Emily,	Verulam.
Fenelon,	
Laxton, Digby and	
Longford,	

Waterloo

### 38.—THE REGIONAL MUNICIPALITY OF WATERLOO

R.S.O. 1980,  
c. 442

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Waterloo Act*.

Wellington

### 39.—THE COUNTY OF WELLINGTON

consists of,

- (a) the City of Guelph;
- (b) the towns of Fergus, Harriston, Mount Forest, Palmerston;
- (c) the villages of Arthur, Clifford, Drayton, Elora, Erin;
- (d) the townships of,

Arthur,	Nichol,
Eramosa,	Peel,
Erin,	Pilkington,
Guelph,	Puslinch,
Maryborough,	West Garafraxa,
Minto,	West Luther.

York

### 40.—THE REGIONAL MUNICIPALITY OF YORK

R.S.O. 1980,  
c. 443

consists of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of York Act*.

41.—THE PROVISIONAL COUNTY OF HALIBURTON Haliburton

consists of,

(a) the Improvement District of Biccroft;

(b) the townships of,

Anson, Hindon and	Glamorgan,
Minden,	Lutterworth,
Cardiff,	Monmouth,
Dysart, Bruton, Clyde,	Sherborne, McClintock
Dudley, Eyre, Guil-	and Livingstone,
ford, Harburn, Har-	Snowdon,
court and Havelock,	Stanhope.

[NOTE: *As to judicial purposes see the Haliburton Act*,  
R.S.O. 1980, c. 194.]

42.—THE TERRITORIAL DISTRICT OF ALGOMA Algoma

consists of,

(a) the City of Sault Ste. Marie;

(b) the towns of Blind River, Bruce Mines, Elliot Lake,  
Thessalon;

(c) the villages of Hilton Beach, Iron Bridge;

(d) the geographic townships of,

Abbott,	Anderson,	Beaton,
Aberdeen,	André,	Beaudin,
Aberdeen	Archibald,	Beaudry,
Additional,	Arnott,	Beauparlant,
Abigo,	Ashley,	Beebe,
Abotossaway,	Assad,	Behmann,
Abraham,	Assef,	Bernst,
Acton,	Asselin,	Bird,
Aguonie,	Atkinson,	Bolger,
Alanen,	Avis,	Boon,
Alarie,	Awenge,	Bostwick,
Albanel,	Aweres,	Bouck,
Alderson,	Bailloquet,	Bourinot,
Allenby,	Barager,	Bracci,
Allouez,	Barnes,	Bray,
Amik,	Bayfield,	Breckenridge,
Amundsen,	Beange,	Bridgland,



Bright,	Davin,	Gaunt,
Bright Additional,	Day,	Gerow,
Brimacombe,	Deagle,	Gervais,
Broome,	Debassige,	Gilbertson,
Broughton,	Del Villano,	Giles,
Brûlé,	Dennis,	Gillmor,
Bruyere,	Deroche,	Gisborn,
Buchan,	Derry,	Gladstone,
Buckles,	Desbiens,	Glasgow,
Bullock,	Doherty,	Goodwillie,
Butcher,	Dolson,	Gould,
Byng,	Doucett,	Gourlay,
Cadeau,	Downer,	Grasett,
Cannard,	Dowsley,	Greenwood,
Carmody,	Drew,	Grenoble,
Carney,	Dulhut,	Grootenboer,
Casson,	Dumas,	Groseilliers,
Chabanel,	Duncan,	Grossman,
Challener,	Dunphy,	Grzela,
Champlain,	Eaket,	Guindon,
Chapais,	Ebbs,	Gunterman,
Charbonneau,	Echum,	Hadley,
Chelsea,	Elgie,	Haig,
Chenard,	Emiry,	Hallett,
Chesley,	Ericson,	Hambleton,
Chesley	Ermine,	Handleman,
Additional,	Esquega,	Haughton,
Cholette,	Esten,	Havilland,
Clouston,	Ewen,	Havrot,
Cobden,	Fabbro,	Hawkins,
Coderre,	Farquhar,	Hayward,
Common,	Fenwick,	Hembruff,
Concobar,	Ferrier,	Herrick,
Conking,	Fiddler,	Hiawatha,
Cooper,	Finan,	Hilton,
Copenace,	Fisher,	Hodgins,
Corbiere,	Flanders,	Hoffman,
Corboy,	Foch,	Home,
Cowie,	Fontaine,	Hook,
Cromlech,	Foucault,	Hotte,
Cross,	Foulds,	Hughes,
Cudney,	Frances,	Hughson,
Curtis,	Franchère,	Hunt,
Cuthbertson,	Franz,	Huotari,
Dablon,	Frost,	Hurlburt,
Dagle,	Gaiashk,	Hynes,
Dahl,	Galbraith,	Irving,
Dambrossio,	Gapp,	Isaac,
Daumont,	Gaudette,	Jackson,
Davieaux,	Gaudry,	Jacobson,

Jarvis,	Leguerrier,	Michano,
Jessiman,	Lehman,	Mildred,
Jocelyn,	Leluk,	Minnipuka,
Jogues,	Lendrum,	Miskokomon,
Johns,	Lerwick,	Monestime,
Johnson,	Lessard,	Mons,
Jollineau,	Levesque,	Montgomery,
Joubin,	Lewis,	Moorehouse,
Juillette,	Ley,	Morin,
Kamichisitit,	Lipton,	Morningstar,
Kane,	Lizar,	Mosambik,
Kapuskasing,	Loach,	Musquash,
Kars,	Lockeyer,	Nadjiwon,
Keating,	Long,	Nagagami,
Keating	Lougheed,	Nahwegezhic,
Additional,	Lunkie,	Nameigos,
Keesickquayash,	Macaskill,	Naveau,
Kehoe,	Macdonald,	Nebonaionquet,
Kildare,	Mack,	Nebotik,
Killins,	Maeck,	Newlands,
Kincaid,	Magone,	Nicholas,
Kirkwell,	Makawa,	Nicolet,
Kirkwood,	Mandamin,	Noganosh,
Knicely,	Maness,	Norberg,
Korah,	Marjorie,	Nouvel,
Labelle,	Marne,	Nuttall,
Labonte,	Martel,	Odlum,
Laforme,	Martin,	Olinyk,
Laird,	Matthews,	Olsen,
Lalibert,	Maude,	Opasatika,
Lamming,	McAughey,	Oscar,
Landriault,	McDowell,	Oshell,
Lane,	McEwing,	Otter,
Larkin,	McFarlan,	Palmer,
LaRonde,	McGiverin,	Parke,
Larson,	McGowan,	Parkinson,
Lascelles,	McIlveen,	Parrott,
Lastheels,	McKeough,	Patton,
Laughren,	McMahon,	Pawis,
LaVerendrye,	McMurray,	Pearkes,
Lawlor,	McNie,	Peever,
LeCaron,	McParland,	Pelletier,
Leclaire,	Meath,	Pennefather,
Lefebvre,	Meen,	Peterson,
Lefroy,	Memaskwosh,	Piche,
Legarde,	Menard,	Pine,
Legarde	Menzies,	Plourde,
Additional,	Mercer,	Plummer,
Legge,	Meredith,	

Plummer	Saunders,	Thorp,
Additional,	Sayer,	Tiernan,
Poncet,	Scarfe,	Tilley,
Poulin,	Scholfield,	Tilston,
Prescott,	Scrivener,	Timbrell,
Prince,	Shanly,	Timmermans,
Proctor,	Shawkence,	Tolmonen,
Puskuta,	Shedden,	Tronsen,
Quill,	Shields,	Tupper,
Raaflaub,	Shingwaukonce,	Tweedle,
Rabazo,	Shulman,	Usnac,
Radisson,	Simons,	Vance,
Raimbault,	Simpson,	VanKoughnet,
Recollet,	Slater,	Varley,
Redden,	Slievert,	Vasiloff,
Redsky,	Smilsky,	Vibert,
Reilly,	Snow,	Viel,
Renwick,	Spragge,	Villeneuve,
Restoule,	Stefansson,	Walls,
Riggs,	Stone,	Wagg,
Rioux,	Stoney,	Wardle,
Rix,	Strain,	Warpula,
Roche,	Strickland,	Waswa,
Rollins,	Striker,	Wawia,
Root,	Sturgeon,	Way-White,
Rose,	Suganaqueb,	Wells,
Rowat,	Tabobondung,	Welsh,
Roy,	Talbott,	West,
Royal,	Tarbutt,	Whitman,
Runnalls,	Tarbutt	Wicksteed,
Running,	Additional,	Winget,
Ruston,	Tarentorous,	Winkler,
Ryan,	Teasdale,	Wiseman,
Sagard,	Tedder,	Wishart,
St. Germain,	Templeton,	Wlasy,
St. Joseph,	Tennyson,	Woolrich,
St. Julien,	Thessalon,	Worton,
Sampson,	Thompson,	Yaremko,

together with all the remaining territory included within the following limits:

Commencing at the northwest corner of the Township of Downer; thence south along the west boundaries of the townships of Downer, Frances, Flanders, Foch, Drew, Welsh, Magone, Johns, Common, Hunt, and the townships of McDowell, Memaskwosh, Charbonneau, Keating, Legarde, St. Germain, and Groseilliers to the high-water mark of Lake

Superior; thence south astronomically to the intersection with the International Boundary between Canada and the United States of America; thence southeasterly and easterly following the International Boundary through Lake Superior, the St. Mary's River and the expansions thereof, and the North Channel of Lake Huron to an angle in the said boundary lying between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles measured south astronomically from the south-westerly extremity of Kenny Point on Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to the intersection of the water's edge of the North Channel of Lake Huron with the southerly production of the west boundary of the Township of Harrow; thence northerly along the said southerly production and the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southeast corner of the Township of Victoria; thence westerly along the south boundary of the Township of Victoria to the southwest corner thereof; thence north along the west boundary of the Township of Victoria to the southwest corner of the Township of Cadeau; thence east along the south boundary of the said township to the southwest corner of the Township of Tennyson; thence east along the south boundary of the Township of Tennyson to the southeast corner of the said township; thence north along the east boundaries of the townships of Tennyson, Boon, Mandamin and Strain to the intersection with the south boundary of the Township of Rowat; thence east along that south boundary to the southeast corner thereof; thence north along the east boundaries of the townships of Rowat, Oshell, Hotte and Del Villano to the northeast corner of the last-mentioned township; thence west along the north boundaries of the townships of Del Villano, Beebe, Avis, Assef and Assad to the southeast corner of the Township of Parrott; thence north along the west boundaries of the townships of Parrott, McKeough and Guindon to the northeast corner of the last-mentioned township; thence west along the north boundaries of the townships of Guindon, Grossman, Gisborn, Gervais, Gaunt, Foulds, Ferrier, Ewen, Butcher, Bracci and Wlasy to the intersection with the east boundary of the Township of Running; thence north along the east boundaries of the townships of Running, McParland, Hallett, Emiry, Behmann, Wawia, Shawkence and Recollet, to the northeast corner of the last-mentioned township; thence west along the north boundary of the Township of Recollet



to the southeast corner of the Township of Nadjiwon; thence north along the east boundaries of the townships of Nadjiwon, Laforme, Echum, Copenace, West and Meath to the intersection with the south boundary of the Township of Acton; thence east along the south boundaries of the townships of Acton, Winget, Amik, Abigo, Kildare, Lerwick, Kirkwall, Kapuskasing and Loughheed to the southeast corner of the last-mentioned township; thence north along the east boundaries of the townships of Loughheed, Davin, Buchan, Allenby, Concobar and Shanly, to the northeast corner of the last-mentioned township; thence west along the north boundaries of the townships of Shanly, Bourinot, Opasatika, Abbott, Doherty and part of the Township of Pelletier, to the southeast corner of the Township of Scholfield; thence north along the east boundaries of the townships of Scholfield and Ebbs to the northeast corner of the last-mentioned township; thence west along the boundaries of the townships of Ebbs, Templeton, McFarlan and Dowsley to the southeast corner of the Township of McEwing; thence north along the east boundaries of the townships of McEwing and Arnott to the northeast corner of the last-mentioned township; thence west along the north boundaries of the townships of Arnott, Cross, Mercer and Downer to the point of commencement.

Provisional  
Judicial  
District of  
Algoma

The Territorial District of Algoma forms the Provisional Judicial District of Algoma.

Boundary  
between  
municipalities  
of Johnson,  
etc., and  
Plummer  
defined

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the municipalities of Johnson, Tarbutt and Tarbutt Additional and the municipality of Plummer Additional.

Cochrane

#### 43.—THE TERRITORIAL DISTRICT OF COCHRANE

consists of,

- (a) the City of Timmins;
- (b) the towns of Cochrane, Hearst, Iroquois Falls, Kapuskasing, Smooth Rock Falls;
- (c) the geographic townships of,

Abbotsford,	Burritt,	Egan,
Acres,	Burstall,	Eilber,
Adair,	Byers,	Eldorado,
Adams,	Caithness,	Elliott,
Adanac,	Calder,	Emerson,
Agassiz,	Calvert,	Enid,
Agate,	Canfield,	Evelyn,
Aitken,	Cargill,	Fauquier,
Alexandra,	Carman,	Fenton,
Amery,	Carmichael,	Fergus,
Ardagh,	Carnegie,	Findlay,
Aubin,	Caron,	Fintry,
Auden,	Carr,	Fleck,
Aurora,	Carroll,	Ford,
Avon,	Carscallen,	Fortune,
Bannerman,	Carss,	Fournier,
Barker,	Case,	Fox,
Barlow,	Casgrain,	Frecheville,
Barnet,	Casselman,	Freele,
Beardmore,	Challies,	Fryatt,
Beatty,	Chipman,	Fushimi,
Beck,	Clavet,	Gaby,
Belford,	Clay,	Galna,
Ben Nevis,	Clergue,	Ganong,
Beniah,	Clifford,	Garden,
Benoit,	Clive,	Gardiner,
Berry,	Clute,	Garrison,
Bessborough,	Cockshutt,	Geary,
Bicknell,	Cody,	Gentles,
Birdsall,	Colquhoun,	German,
Bisley,	Cook,	Gill,
Black,	Côté,	Glackmeyer,
Blackstock,	Coulson,	Godfrey,
Blakelock,	Crawford,	Goldwin,
Blount,	Cumming,	Goodwin,
Bond,	Currie,	Gowan,
Bonis,	Dargavel,	Greer,
Bourassa,	Deloro,	Griffin,
Bowman,	Dempsay,	Guibord,
Bowyer,	Denton,	Guilfoyle,
Boyce,	De Pencier,	Gurney,
Boyle,	Devitt,	Habel,
Bradburn,	Dokis,	Haggart,
Bradette,	Duff,	Haight,
Bradley,	Dundonald,	Hambly,
Bragg,	Dunsmore,	Hamlet,
Brain,	Dyer,	Haney,
Bristol,	Ebbitt,	Hanlan,
Brower,	Ecclestone,	Hanna,
Burrell,	Edwards,	Harewood,

Harker,	Leitch,	Mortimer,
Harmon,	Lennox,	Mountjoy,
Heath,	Lewers,	Mowbray,
Hecla,	Lisgar,	Mulholland,
Heighington,	Little,	Mulloy,
Henderson,	Loveland,	Mulvey,
Henley,	Lowther,	Munro,
Hepburn,	Lucas,	Murphy,
Hicks,	Mabee,	Nansen,
Hillmer,	Macdiarmid,	Nassau,
Hislop,	Machin,	Neely,
Hoblitzell,	Macklem,	Nesbitt,
Hobson,	Macvicar,	Nettleton,
Hogg,	Magladery,	Newman,
Holloway,	Mahaffy,	Newmarket,
Homuth,	Maher,	Nixon,
Hopkins,	Mahoney,	Noseworthy,
Horden,	Mann,	Nova,
Howells,	Marathon,	O'Brien,
Hoyle,	Marceau,	Ogden,
Hurdman,	Marriott,	Oke,
Hurtubise,	Marven,	Ophir,
Idington,	Massey,	Orkney,
Inglis,	Matheson,	Ossin,
Ireland,	Maund,	Ottaway,
Irish,	McAlpine,	Owens,
Jamieson,	McBrien,	Parliament,
Jessop,	McCann,	Parnell,
Keefer,	McCart,	Parr,
Kendall,	McCausland,	Pearce,
Kendrey,	McCoig,	Pickett,
Kennedy,	McCool,	Pinard,
Kenning,	McCowan,	Pitt,
Kerrs,	McCrea,	Playfair,
Kidd,	McCuaig,	Pliny,
Kilmer,	McEvay,	Pontiac,
Kineras,	McKnight,	Potter,
Kingsmill,	McLeister,	Poulett,
Kipling,	McMillan,	Price,
Kirkland,	McQuibban,	Prosser,
Knox,	Melba,	Purvis,
Kohler,	Menapia,	Pyne,
Laidlaw,	Mewhinney,	Rand,
Lamarche,	Michaud,	Rapley,
Lambert,	Milligan,	Raven,
Lamplugh,	Moberly,	Raynar,
Landry,	Montcalm,	Reaume,
Langemarck,	Moody,	Reid,
Langmuir,	Moose,	Rickard,
Laughton,	Morrow,	Ritchie,

Robb,	Staples,	Tisdale,
Roebuck,	Staunton,	Tolmie,
Rogers,	Steele,	Tolstoi,
Rowlandson,	Stimson,	Tomlinson,
Rykert,	Stock,	Torrance,
St. John,	Stoddard,	Traill,
St. Laurent,	Storey,	Tucker,
Sanborn,	Stoughton,	Tully,
Sanderson,	Strachan,	Turnbull,
Sangster,	Stringer,	Tweed,
Sankey,	Studholme,	Valentine,
Sargeant,	Sulman,	Verdun,
Scapa,	Sutcliffe,	Wacousta,
Scovil,	Swanson,	Wadsworth,
Seaton,	Swartman,	Walker,
Seguin,	Sweatman,	Warden,
Selwyn,	Sweet,	Wark,
Shackleton,	Sydere,	Watson,
Shannon,	Syer,	Way,
Shaw,	Tannahill,	Webster,
Shearer,	Taylor,	Weichel,
Sheldon,	Teefy,	Wesley,
Sheraton,	Teetzel,	Whitesides,
Sherring,	Thackeray,	Whitney,
Shetland,	Thomas,	Wilhelmina,
Shuel,	Thorburn,	Wilkie,
Singer,	Thorning,	Williamson,
Slack,	Thornloe,	Winnington,
Stapells,	Timmins,	Wright,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence north along the west boundaries of the townships of Clavet and Boyce to the northwest corner of the last-mentioned township; thence west along the south boundaries of the townships of Henderson, Selwyn, Barlow, Goodwin, Chipman and Raynar to the southwest corner of the last-mentioned township; thence north along the meridian run by O.L.S. Speight and van Nostrand in 1925 and its northerly production to the centre of the main channel of the Albany River; thence easterly, northerly and north-easterly along the centre of the main channel of the Albany River and the expansions thereof to the shore of James Bay; thence southeasterly, southerly, easterly and north-easterly along the shore of James Bay to its intersection with the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial



Boundary to the southeast corner of the Township of Pontiac; thence west astronomically to the southwest corner of the Township of Keefer; thence north along the west boundary of the townships of Keefer and Whitesides to the northwest corner of the Township of Whitesides; thence west astronomically to the southwest corner of the Township of Ossin; thence north astronomically to the northwest corner of the Township of Staples; thence west astronomically to the southwest corner of the Township of Caithness; thence north along the west boundaries of the townships of Caithness and Orkney to the northwest corner of the Township of Orkney; thence west astronomically to the southwest corner of the Township of Langemarck; thence north astronomically along the west boundary of the townships of Langemarck and Storey to the northwest corner of the last-mentioned township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional  
Judicial  
District of  
Cochrane

The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane.

Kenora

#### 44.—THE TERRITORIAL DISTRICT OF KENORA

consists of,

(a) the towns of Dryden, Keewatin, Kenora, Sioux Lookout;

(b) the geographic townships of,

Aubrey,	Code,	Furniss,
Avery,	Colenso,	Gidley,
Barrett,	Corman,	Glass,
Benedickson,	Coyle,	Godson,
Big Island,	Daniel,	Gour,
Boys,	Desmond,	Grummett,
Bradshaw,	Devonshire,	Gundy,
Breithaupt,	Dewan,	Hartman,
Bridges,	Docker,	Haycock,
Britton,	Drayton,	Hodgson,
Broderick,	Drope,	Hyndman,
Brownridge,	Echo,	Ignace,
Buller,	Eton,	Ilsley,
Burk,	Ewart,	Jackman,
Cathcart,	Factor,	Jaffray,
Chartrand,	Forgie,	Jordan,

Kirkup,	Mutrie,	Smellie,
Ladysmith,	Noyon,	Southworth,
Langton,	Osaquan,	Stokes,
Laval,	Pelican,	Temple,
le May,	Pellatt,	Tustin,
Lomond,	Pettypiece,	Tweedsmuir,
MacFie,	Phillips,	Umbach,
MacNicol,	Pickerel,	Van Horne,
MacQuarrie,	Redditt,	Vermilion,
Mafeking,	Redvers,	Vermilion
Malachi,	Revell,	Additional,
Manross,	Rice,	Wabigoon,
McAree,	Rowell,	Wainwright,
McGeorge,	Rudd,	Wauchope,
McIlraith,	Rugby,	Webb,
McMeekin,	Sanford,	Willingdon,
McNevin,	Satterly,	Work,
Melgund,	Skey,	Zealand,
Melick,	Slaught,	

together with all the remaining territory included within the following limits:

Commencing at the 48th mile post on O.L.S. Niven's meridian line of 1890 in latitude  $49^{\circ} 0' 6''$  north; thence due west 89 miles, 71 chains, 7 links more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the southeast angle of the Township of Godson and continuing west along the south boundary of the Township of Godson to the east shore of Sabaskong Bay of Lake of the Woods; thence westerly and south-westerly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary between Canada and the United States of America; thence northerly and westerly along the International Boundary to the Interprovincial Boundary between Ontario and Manitoba; thence due north along the last-mentioned boundary to the middle of the main channel of the Winnipeg River; thence easterly upstream along the middle of the main channel of the Winnipeg and English Rivers and the lake expansions and along the middle of Lac Seul and Root River to the portage on the height of land; thence along the middle of the said portage to the waters flowing into Lake St. Joseph; thence along the middle of the main channel of Lake St. Joseph to O.L.S. Dobie's meridian line run in 1919;

thence due south along the said last-mentioned meridian line and along O.L.S. Niven's meridian line run in 1890 to the point of commencement; and

(c) the Patricia Portion which consists of the geographic townships of,

Agnew,	Costello,	McCullagh,
Baird,	Dent,	McDonough,
Ball,	Dome,	McNaughton,
Balmer,	Earney,	Mitchell,
Bateman,	Fairlie,	Mulcahy,
Belanger,	Goodall,	Ponsford,
Birkett,	Graves,	Ranger,
Bowerman,	Heyson,	Shaver,
Byshe,	Honeywell,	Skinner,
Connell,	Killala,	Todd,
Corless,	Knott,	Willans,

together with all the remaining territory included within the following limits:

Commencing at the most northerly point of the westerly boundary of Ontario as determined by *The Canada (Ontario) Boundary Act, 1889*, Chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake, as fixed on the ground in the year 1930 by the erection of concrete monument number 295 of the Ontario-Manitoba Boundary survey and situated in about north latitude  $53^{\circ} 44' 19''.42$  and in about west longitude  $93^{\circ} 39' 14''.91$ ; thence northeasterly in a right line to a point twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. (*See 1912, c. 3 and 1950, c. 48*)

[NOTE: As to provision for the administration of justice, registration of instruments, etc., in Patricia, see *The Patricia Act, R.S.O. 1937, c. 5.*]

Provisional  
Judicial  
District of  
Kenora

The Territorial District of Kenora forms the Provisional Judicial District of Kenora.

# 45.—THE TERRITORIAL DISTRICT OF MANITOULIN

Manitoulin

consists of,

(a) the towns of Gore Bay, Little Current ;

(b) the geographic townships of,

Allan,	Carlyle,	Killarney,
Assiginack,	Carnarvon,	Mills,
Barrie Island,	Cockburn Island,	Robinson,
Bidwell,	Dawson,	Rutherford,
Billings,	Gordon,	Sandfield,
Burpee,	Howland,	Sheguiandah,
Campbell,	Humboldt,	Tehkummah ;

(c) the islands named,

Badgeley,	Great Cloche,	Sampson,
Bedford,	Green,	Squaw,
Burnt,	Heywood,	Strawberry,
Centre,	Hog,	Vankoughnet,
Clapperton,	Iroquois,	Vidal,
Club,	Little Cloche,	Wall,
Crescent,	Lonely,	Wardrope,
Duck,	Lucas,	Wells,
East Rous,	McGregor,	West Rous,
Fitzwilliam,	Philip Edward,	Yeo,
George,	Rabbit,	

together with all the remaining territory included within the following limits :

Commencing at the southeast corner of the Township of Humboldt; thence south astronomically forty miles; thence west astronomically to the International Boundary; thence northwesterly and northeasterly along the International Boundary to an angle therein in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the west boundary of the Township of Harrow; thence easterly and southerly



following the water's edge of the said channel to the north boundary of the west part of the unsundered portion of the Whitefish River Indian Reserve No. 4; thence east along the said boundary and its production to the water's edge of the North Channel of Lake Huron; thence northerly, easterly and southerly following the said water's edge to the north boundary of the Township of Killarney; thence east along the north boundaries of the townships of Killarney and Carlyle to the northeast corner of the last-mentioned township; thence south along the east boundary of the Township of Carlyle to the northwest corner of the Township of Humboldt; thence east along the north boundary of the said township to the northeast corner thereof; thence south along the east boundary of the Township of Humboldt to the southeast corner thereof, the point of commencement.

Provisional  
Judicial  
District of  
Manitoulin

The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin.

Muskoka

#### 46.—THE TERRITORIAL DISTRICT OF MUSKOKA

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consists of The District Municipality of Muskoka composed of the municipalities from time to time included within the District Area as defined in the *District Municipality of Muskoka Act*.

Provisional  
Judicial  
District of  
Muskoka

The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka.

Nipissing

#### 47.—THE TERRITORIAL DISTRICT OF NIPISSING

consists of,

- (a) the City of North Bay;
- (b) the towns of Cache Bay, Mattawa, Sturgeon Falls;
- (c) the geographic townships of,

Airy,  
Anglin,  
Angus,  
Antoine,  
Askin,  
Aston,  
Badgerow,  
Ballantyne,  
Banting,  
Barron,  
Bastedo,

Beaucage,  
Belfast,  
Bertram,  
Best,  
Biggar,  
Bishop,  
Blyth,  
Bonfield,  
Boulter,  
Bower,  
Boyd,

Briggs,  
Bronson,  
Burnaby,  
Butler,  
Butt,  
Caldwell,  
Calvin,  
Cameron,  
Canisbay,  
Canton,  
Cassels,

Chambers,	Hebert,	Olrig,
Charlton,	Hobbs,	Osborne,
Chisholm,	Hugel,	Osler,
Clancy,	Hunter,	Papineau,
Clarkson,	Joan,	Pardo,
Clement,	Jocko,	Parkman,
Commanda,	Kenny,	Paxton,
Crerar,	Kirkpatrick,	Peck,
Cynthia,	La Salle,	Pedley,
Dana,	Latchford,	Pentland,
Deacon,	Lauder,	Phelps,
Devine,	Law,	Phyllis,
Dickens,	Le Roche,	Poitras,
Dickson,	Lister,	Preston,
East Ferris,	Lockhart,	Riddell,
Eddy,	Loudon,	Sabine,
Edgar,	Lyell,	Scholes,
Eldridge,	Lyman,	Sisk,
Falconer,	Macpherson,	Springer,
Fell,	Master,	Sproule,
Field,	Mattawan,	Stewart,
Finlayson (part),	McAuslan,	Strathcona,
FitzGerald,	McCallum,	Strathy,
Flett,	McCraney,	Stratton,
French,	McLaren,	Thistle,
Freswick,	McLaughlin,	Torrington,
Garrow,	McWilliams,	Vogt,
Gibbons,	Merrick,	West Ferris,
Gladman,	Milne,	White,
Gooderham,	Mulock,	Widdifield,
Grant,	Murchison,	Wilkes,
Guthrie,	Niven,	Wyse,
Hammell,	Notman,	Yates,
Hartle,	Olive,	

together with that part of the geographic township of Finlayson not included in The District Municipality of Muskoka and all the remaining territory included within the following limits:

Commencing at the southeast corner of the Township of Falconer; thence west along the south boundary of the said township to the southwest corner thereof; thence north along the west boundaries of the townships of Falconer, Loudon, and Macpherson to the northwest corner of the last-mentioned township; thence east along the north boundary of the Township of Macpherson to the southwest corner of the Township of Kirkpatrick; thence north along the west boundaries of the townships of Kirkpatrick, Hugel, Crerar, Dana, Pardo, Clement, Scholes, and Belfast, to the

northwest corner of the last-mentioned township; thence east along the north boundary of the Township of Belfast to the southwest corner of the Township of Le Roche; thence north along the west boundaries of the townships of Le Roche and Canton to the northwest corner of the last-mentioned township; thence east along the north boundaries of the townships of Canton, Aston, Banting and Best in the Territorial District of Nipissing to the southeast corner of the Township of Brigstocke in the Territorial District of Timiskaming; thence southeasterly along the southwesterly boundary of the Township of Gillies Limit to the most southerly corner of the last-mentioned township; thence northeasterly along the southeasterly boundary of the last-mentioned township to the east boundary of the Township of Best in the Territorial District of Nipissing; thence south along the east boundaries of the townships of Best and Cassels to the southeast corner of the last-mentioned township; thence east along the north boundaries of the townships of Eldridge and Hebert and the production easterly of the north boundary of the Township of Hebert to the Interprovincial Boundary between Ontario and Quebec in Lake Timiskaming; thence in a southeasterly direction along the said Interprovincial Boundary to the intersection with the production northeasterly of the easterly boundary of the Township of Cameron; thence southerly along the said production and the easterly boundaries of the townships of Cameron and Deacon to the northwesterly corner of the Township of FitzGerald; thence easterly along the northerly boundary of the Township of FitzGerald to the northeasterly corner thereof; thence southerly along the easterly boundary of the Township of FitzGerald to the northwesterly corner of the Township of Edgar; thence easterly along the northerly boundary of the Township of Edgar to the northeasterly corner thereof; thence southerly along the easterly boundary of the Township of Edgar to the northwesterly corner of the Township of Bronson; thence easterly along the northerly boundary of the Township of Bronson to the northeasterly corner thereof; thence southerly along the easterly boundaries of the townships of Bronson, Stratton, and Master to the southeasterly corner of the last-mentioned township; thence westerly along the southerly boundaries of the townships of Master and Guthrie to the northeasterly corner of the Township of Dickens; thence southerly along the easterly boundary of the Township of Dickens to the southeasterly corner thereof; thence westerly along the southerly boundary of the Township of Dickens to the northeasterly corner of the Township of Lyell; thence southerly along the easterly boundary of the Township of Lyell to the southeasterly corner thereof; thence westerly along the southerly boundaries of the townships of Lyell and Sabine to the southwesterly

corner of the last-mentioned township; thence northerly along the westerly boundaries of the townships of Sabine and Airy to the northwesterly corner of the last-mentioned township; thence westerly along the southerly boundaries of the townships of Sproule, Canisbay, Peck and Finlayson to the easterly limit of the Township of Lake of Bays; thence northerly along the easterly boundary of the Township of Lake of Bays to the northeasterly corner thereof; thence westerly along the northerly boundary of the Township of Lake of Bays in the Territorial District of Muskoka to the southeast corner of the Township of Bethune in the Territorial District of Parry Sound; thence northerly along the westerly boundaries of the townships of McCraney, Butt, Paxton, and Ballantyne in the Territorial District of Nipissing to the northwesterly corner of the last-mentioned township; thence easterly along the northerly boundary of the Township of Ballantyne to the southwest corner of the Township of Chisholm; thence northerly along the westerly boundaries of the townships of Chisholm and East Ferris to the southerly boundary of the Township of West Ferris; thence westerly along the southerly boundary of the Township of West Ferris to the water's edge of Lake Nipissing; thence westerly in a straight line across Lake Nipissing to a point in the middle of the Main Channel of the French River lying south of and off the most easterly extremity of Blueberry Island; thence southwest along the centre line of the Main Channel of the French River to its confluence with the centre line of Little French River lying north of Okikendawt Island; thence in a westerly, southeasterly and southwest direction following the said centre line of the Little French River to the intersection with the production easterly of the south boundary of the Township of Latchford; thence westerly along the said production and the south boundary of the Township of Latchford to the point of commencement.

The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing.

Provisional  
Judicial  
District of  
Nipissing

#### 48.—THE TERRITORIAL DISTRICT OF PARRY SOUND

Parry Sound

consists of,

- (a) the towns of Kearney, Parry Sound, Powassan, Trout Creek;
- (b) the villages of Burk's Falls, Magnetawan, Rosseau, South River, Sundridge;



(c) the geographic townships of,

Armour,	Gurd,	Monteith,
Bethune,	Hagerman,	Mowatt,
Blair,	Hardy,	Nipissing,
Brown,	Harrison,	North Himsworth,
Burton,	Henvey,	Patterson,
Carling,	Humphrey,	Perry,
Chapman,	Joly,	Pringle,
Christie,	Laurier,	Proudfoot,
Conger,	Lount,	Ryerson,
Cowper,	Machar,	Shawanaga,
Croft,	McConkey,	South Himsworth,
East Burpee,	McDougall,	Spence,
East Mills,	McKellar,	Strong,
Ferguson,	McKenzie,	Wallbridge,
Ferrie,	McMurrich,	Wilson,
Foley,		

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Conger; thence easterly along the southerly boundaries of the townships of Conger and Humphrey to the southeast corner of the Township of Humphrey; thence northerly along the easterly boundary of the Township of Humphrey to the northeast corner of the said township; thence easterly along the southerly boundaries of the townships of Monteith, McMurrich, Perry and Bethune to the southeast corner of the last-mentioned township; thence northerly along the easterly boundaries of the townships of Bethune, Proudfoot, Joly and Laurier to the northeast angle of the last-mentioned township; thence easterly along the southerly boundary of the Township of South Himsworth to the southeast angle thereof; thence northerly along the easterly boundaries of the townships of North Himsworth and South Himsworth to the northeast angle of the last-mentioned township; thence westerly along the northerly boundary of the Township of North Himsworth to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the centre of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island and along that channel of the French River that lies adjacent to the south boundaries of the townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along said production to the water's edge of the said channel; thence south-

westerly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay of Lake Huron to the west boundary of the Township of Travers; thence easterly and southerly along the northerly and easterly shores of Georgian Bay to the southwest angle of the Township of Conger, the point of commencement, and including all islands lying opposite to the said northerly and easterly shores of Georgian Bay.

The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound.

Provisional  
Judicial  
District of  
Parry Sound

49.—THE TERRITORIAL DISTRICT OF RAINY RIVER

Rainy River

consists of,

- (a) the towns of Fort Frances, Rainy River;
- (b) the geographic townships of,

Asmussen,	Freeborn,	Pratt,
Atwood,	Griesinger,	Ramsay Wright,
Aylsworth,	Halkirk,	Richardson,
Baker,	Hutchinson,	Roddick,
Barwick,	Kingsford,	Roseberry,
Bennett,	Lash,	Rowe,
Blue,	Mather,	Schwenger,
Burriss,	Mathieu,	Senn,
Carpenter,	McCaul,	Shenston,
Claxton,	McCrosson,	Sifton,
Croome,	McIrvine,	Spohn,
Crozier,	McLarty,	Sutherland,
Curran,	Menary,	Tait,
Dance,	Miscampbell,	Tanner,
Devlin,	Morley,	Tovell,
Dewart,	Morley Additional,	Trottier,
Dilke,	Morson,	Watten,
Dobie,	Nelles,	Weaver,
Farrington,	Pattullo,	Woodyatt,
Fleming,	Potts,	Worthington,

together with all the remaining territory included within the following limits:

Commencing where the westerly boundary of the District of Thunder Bay intersects the International Boundary between Canada and the United States of America in Saganaga Lake; thence due north along the said district boundary to the 48th mile post thereon in latitude 49° 0' 6" north; thence due west 89 miles, 71 chains, 7 links, more or less to the 18th

mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the northeast angle of the Township of McLarty and continuing west along the north boundaries of the townships of McLarty and Claxton and the westerly production thereof to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary; thence southerly along the International Boundary to the mouth of the Rainy River; thence southeasterly and easterly up the Rainy River along the International Boundary to Rainy Lake; thence easterly, southerly and southeasterly following the International Boundary through Rainy Lake and the several lakes, rivers and portages along the International Boundary, to the place of beginning.

Provisional  
Judicial  
District of  
Rainy River

The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River.

Sudbury

#### 50.—THE TERRITORIAL DISTRICT OF SUDBURY

consists of,

(a) The Regional Municipality of Sudbury composed of the municipalities from time to time included within the Regional Area as defined in the *Regional Municipality of Sudbury Act*.

(b) the towns of Espanola, Massey and Webbwood;

(c) the geographic townships of,

Abbey,	Arden,	Beaumont,
Abney,	Armagh,	Beckett,
Acadia,	Asquith,	Beemer,
Acheson,	Athlone,	Beilhartz,
Addison,	Attlee,	Benneweis,
Admiral,	Awrey,	Benton,
Afton,	Aylmer,	Beresford,
Alcona,	Bader,	Bernier,
Alcorn,	Baldwin,	Beulah,
Allen,	Balfour,	Bevin,
Alton,	Baltic,	Bigelow,
Amyot,	Barclay,	Biggs,
Antrim,	Battersby,	Bigwood,
Appleby,	Baynes,	Birch,
Arbutus,	Bazett,	Biscotasi,

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Blackburn,	Chewett,	Dryden,
Blamey,	Churchill,	Dublin,
Blewett,	Clary,	Dukszta,
Blezard,	Cleland,	Dunbar,
Bliss,	Clifton,	Dundee,
Bonar,	Cochrane,	Dunlop,
Bordeleau,	Collins,	Dunnet,
Borden,	Collinshaw,	Dupuis,
Botha,	Comox,	Durban,
Bounsall,	Connaught,	Earl,
Bowell,	Coppell,	Eaton,
Brackin,	Copperfield,	Eden,
Braithwaite,	Cortez,	Edighoffer,
Breadner,	Cosby,	Edinburgh,
Brebeuf,	Cosens,	Edith,
Broder,	Cotton,	Eisenhower,
Browning,	Cox,	Elizabeth,
Brunswick,	Craig,	Ellis,
Brutus,	Creelman,	Emerald,
Buckland,	Creighton,	Emo,
Bullbrook,	Crépieul,	English,
Burr,	Crockett,	Engstrom,
Burrows,	Crothers,	Eric,
Burwash,	Cull,	Ermatinger,
Busby,	Cunningham,	Esther,
Cabot,	Curtin,	Ethel,
Caen,	Dale,	Evans,
Calais,	Dalmas,	Fairbairn,
Caouette,	Daoust,	Fairbank,
Capreol,	D'Arcy,	Falconbridge,
Carew,	D'Avaugour,	Faust,
Carruthers,	Davis,	Fawcett,
Carter,	Deans,	Fawn,
Cartier,	de Gaulle,	Fingal,
Carton,	Delamere,	Fitzsimmons,
Carty,	Delaney,	Floranna,
Cascaden,	Delhi,	Foleyet,
Casimir,	Delmage,	Foster,
Cassidy,	DeMorest,	Foy,
Cavana,	Denison,	Fraleck,
Cavell,	Dennie,	Frater,
Caverley,	Denyes,	Frechette,
Ceylon,	DesRosiers,	Frey,
Chalet,	Dieppe,	Fulton,
Champagne,	Dill,	Gallagher,
Chapleau,	Dore,	Gamey,
Chaplin,	Dowling,	Gardhouse,
Chappise,	Drea,	Garibaldi,
Cherriman,	Druillettes,	Garnet,
Chester,	Drury,	Garson,



Garvey,	Hutcheon,	MacIennan,
Genier,	Hutt,	Macmurchy,
Genoa,	Hutton,	Mageau,
Gilbert,	Hyman,	Mallard,
Gilliland,	Invergarry,	Manning,
Gladwin,	Inverness,	Marconi,
Goschen,	Iris,	Margaret,
Gough,	Ivanhoe,	Marion,
Gouin,	Ivy,	Marquette,
Graham,	Jack,	Marsh,
Green,	Janes,	Marshall,
Greenlaw,	Jasper,	Marshay,
Grigg,	Jeffries,	Martland,
Groves,	Jennings,	Mason,
Haddo,	Joffre,	Mattagami,
Haentschel,	Kalen,	May,
Hagar,	Kaplan,	McBride,
Halcrow,	Keith,	McCarthy,
Halifax,	Kelly,	McConnel,
Hall,	Kelsey,	McGee,
Hallam,	Kelso,	McKim,
Halliday,	Kelvin,	McKinnon,
Halsey,	Kemp,	McLeod,
Hammond,	Kenogaming,	McNamara,
Hancock,	Kilpatrick,	McNaught,
Hanmer,	Kitchener,	McNish,
Hardiman,	Kosny,	McOwen,
Harrow,	Lackner,	McPhail,
Hart,	La Fleche,	Melrose,
Harty,	Lampman,	Merritt,
Hassard,	Lang,	Middleboro,
Hawley,	Langlois,	Miramichi,
Hazen,	Laura,	Missinaibi,
Heenan,	Leask,	Moen,
Hellyer,	Leeson,	Moffat,
Hendrie,	Leinster,	Moggy,
Hennessy,	Lemoine,	Moher,
Henry,	Levack,	Moncrieff,
Hess,	Lillie,	Mond,
Hill,	Lincoln,	Mongowin,
Hodgetts,	Lipsett,	Morgan,
Hoey,	Lloyd,	Morse,
Hollinger,	Londonderry,	Moses,
Hong Kong,	Lorne,	Mountbatten,
Hornell,	Loughrin,	Muldrew,
Horwood,	Louise,	Munster,
Hoskin,	Lumsden,	Murdock,
Howey,	Lynch,	Muskego,
Hubbard,	Macbeth,	Nairn,
Huffman,	Mackelcan,	Natal,

Neelands,	Sadler,	Strom,
Neelon,	St. Louis,	Struthers,
Neill,	Sale,	Stull,
Neville,	Salter,	Swayze,
Newton,	Sandy,	Sweeny,
Nimitz,	Scadding,	Symington,
Noble,	Schembri,	Telfer,
Norman,	Scollard,	Tilton,
Northrup,	Scotia,	Tofflemire,
Nurse,	Scriven,	Togo,
Oates,	Seagram,	Tooms,
Ogilvie,	Secord,	Topham,
Onaping,	Selby,	Totten,
Oswald,	Selkirk,	Travers,
Osway,	Semple,	Trill,
Ouellette,	Servos,	Triquet,
Panet,	Sewell,	Truman,
Parker,	Shakespeare,	Turner,
Parkin,	Sheard,	Tyrone,
Patenaude,	Shelburne,	Ulster,
Pattinson,	Shelley,	Unwin,
Paudash,	Shenango,	Valin,
Paul,	Sheppard,	Venturi,
Penhorwood,	Sherlock,	Vernon,
Peters,	Sherratt,	Victoria,
Pinogami,	Shibananing,	Vondette,
Porter,	Shipley,	Vrooman,
Potier,	Silk,	Wakami,
Racine,	Singapore,	Waldie,
Ramsden,	Sladen,	Warren,
Raney,	Smuts,	Waters,
Rathbun,	Snider,	Weeks,
Ratter,	Solski,	Westbrook,
Rayside,	Somme,	Whalen,
Reaney,	Sothman,	Whigham,
Reeves,	Specht,	Whitehead,
Regan,	Stalin,	Wigle,
Rennie,	Stetham,	Windego,
Rhodes,	Stobie,	Wisner,
Roberts,	Stover,	Yeo,
Roblin,	Stralak,	Zavitz,
Rollo,	Strathearn,	
Roosevelt,	Street,	

together with all the remaining territory included within the following limits;

Commencing at the southwest corner of the Township of Harrow; thence north along the west boundary of the

Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southwest corner thereof; thence westerly along the south boundary of the Township of Victoria to the southwest corner thereof; thence north along the west boundary of the Township of Victoria to the northwest corner thereof; thence east along the north boundary of the Township of Victoria to the northeast corner thereof; thence east along the north boundary of the Township of Salter to the southwest corner of the Township of Gough; thence north along the west boundaries of the townships of Gough, Shibananing, Weeks and Moses to the northwest corner of the Township of Moses; thence east along the north boundary of the last-mentioned township to the southwest corner of the Township of Solski; thence north along the west boundaries of the townships of Solski, Ouellette, Gilbert and Dennie to the intersection with the south boundary of the Township of La Fleche; thence west along the south boundaries of the townships of La Fleche, Alton, Jasper, Durban, Ethel and Comox, to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Comox, Fulton and Iris to the northwest corner of the last-mentioned township; thence west along the south boundaries of the townships of Edighoffer, Eaton, Dukszta, Drea, Deans, Cassidy, Carruthers, Carton, Sherratt, Scriven, and Schembri to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Schembri, Moen, Hammond, Engstrom, Beilhartz, Windego, Topham and Cosens to the intersection with the south boundary of the Township of D'Avaugour; thence west along the said south boundary to the southwest corner thereof; thence north along the west boundaries of the townships of D'Avaugour, Hornell, Bader, Marsh, Stover and Rennie to the northwest corner of the last-mentioned township; thence east along the north boundaries of the townships of Rennie, Leeson, Baltic, Barclay, Calais, Lloyd, Bonar, Sherlock, Shenango, Oates, Oswald, Melrose and Frey to the northeast corner of the last-mentioned township; thence south along the east boundaries of the townships of Frey, Sewell and Kenogaming to the northwest corner of the Township of Crothers; thence east along the north boundaries of the townships of Crothers, McBride, Hassard, Beemer, English and Zavitz to the northeast corner of the last-mentioned township; thence south along the east boundaries of the townships of Zavitz, Hutt, Halliday, Mond, Natal, Macmurchy, Fawcett, Ogilvie and Browning to the northwest corner of the Township of Stull; thence east along the north boundaries of the townships of Stull, McLeod, Ellis, Parker, Selby and Sladen to the northeast

corner of the last-mentioned township; thence south along the east boundaries of the townships of Sladen, Shelburne, and Delhi to the southeast corner of the last-mentioned township; thence west along the south boundary of the Township of Delhi to the northeast corner of the Township of Armagh; thence south along the east boundaries of the townships of Armagh, Afton, Macbeth, McNish, Janes, Henry, Ratter and Dunnet to the southeast corner of the last-mentioned township; thence west along the south boundary of the Township of Dunnet to the northeast corner of the Township of Casimir; thence south along the east boundaries of the townships of Casimir, Haddo and Martland to the southeast corner of the last-mentioned township; thence east along the north boundary of the Township of Scollard and its easterly production to the centre line of the Little French River lying north of Okikendawt Island; thence southwesterly along the said centre line of the Little French River and the French River Main Channel adjacent to the south boundaries of the townships of Scollard, Mason, Bigwood, Allen and Struthers to the intersection with the southerly production of the east boundary of the Township of Travers; thence north along the said southerly production to the water's edge along the north shore of the said channel; thence southwesterly, westerly and southwesterly along the said water's edge and the water's edge of Georgian Bay to the intersection with the southerly production of the west boundary of the Township of Travers; thence north along the said southerly production and the west boundaries of the townships of Travers and Kilpatrick to the northwest corner of the last-mentioned township; thence west along the south boundary of the Township of Sale to the southwest corner thereof; thence north along the west boundary of the Township of Sale to the southeast corner of the Township of Goschen; thence west along the south boundaries of the townships of Goschen, Stalin, Roosevelt and Curtin, and the westerly production of the south boundary of the last-mentioned township, to the water's edge of the North Channel of Lake Huron; thence northerly, westerly and southerly following the said water's edge to its intersection with the easterly production of the north boundary of the west part of the unsundered portion of the Whitefish Indian Reserve Number 4; thence west along the said production and the said north boundary to the water's edge of the North Channel of Lake Huron; thence northerly and westerly along the said water's edge to its intersection with the southerly production of the west boundary of the Township of Harrow; thence north along the said production to the point of commencement.



Provisional  
Judicial  
District of  
Sudbury

The Territorial District of Sudbury forms the Provisional  
Judicial District of Sudbury.

Thunder Bay

# 51.—THE TERRITORIAL DISTRICT OF THUNDER BAY

consists of,

(a) the City of Thunder Bay;

(b) the Town of Geraldton;

(c) the geographic townships of,

Abrey,	Conmee,	Golding,
Adamson,	Corrigal,	Goodfellow,
Adrian,	Cotte,	Gorham,
Aldina,	Croll,	Goulet,
Alpha,	Crooks,	Grain,
Ames,	Daley,	Graydon,
Ashmore,	Danford,	Grenville,
Atikameg,	Davies,	Gzowski,
Bain,	Devon,	Hagey,
Barbara,	Dorion,	Haines,
Bégin,	Dorothea,	Hanniwel,
Bell,	Duckworth,	Hardwick,
Benner,	Dye,	Hartington,
Bertrand,	Elmhirst,	Heathcote,
Bickle,	Errington,	Hele,
Blackwell,	Esnagami,	Herbert,
Blake,	Eva,	Hipel,
Bomby,	Exton,	Hogarth,
Booth,	Fallis,	Homer,
Boucher,	Fauteux,	Horne,
Brothers,	Fernow,	Houck,
Bryant,	Fletcher,	Innes,
Bulmer,	Flood,	Inwood,
Byron,	Foote,	Irwin,
Cecil,	Forbes,	Jacques,
Cecile,	Fowler,	Jean,
Chevrier,	Fraleigh,	Joynt,
Church,	Fulford,	Jutten,
Cockeram,	Furlonge,	Kilkenny,
Coldwell,	Gemmell,	Killraine,
Colliver,	Gertrude,	Kirby,
Colter,	Gibbard,	Kitto,
Coltham,	Gillies,	Klotz,
Conacher,	Glen,	Knowles,
Conant,	Goldie,	Kowkash,

Laberge,	McQuesten,	Roberta,
Lahontan,	McTavish,	Robson,
Lamport,	Meader,	Rupert,
Langworthy,	Meinzinger,	Sackville,
Lapierre,	Michener,	Salsberg,
Laurie,	Mikano,	Sandra,
Lecours,	Moss,	Savanne,
Ledger,	Nakina,	Savant,
Leduc,	Neebing,	Scoble,
Legault,	Nickle,	Shabotik,
Leslie,	Nipigon,	Sibley,
Lett,	Oakes,	Smye,
Lindsley,	Oboshkegan,	Soper,
Lismore,	O'Connor,	Spooner,
Low,	Oliver,	Stedman,
Lybster,	O'Meara,	Stirling,
Lyon,	O'Neill,	Strange,
MacGregor,	Paipoonge,	Strey,
Manion,	Pardee,	Summers,
Mapledoram,	Parent,	Suni,
Marks,	Parry,	Syine,
McAllister,	Patience,	Trewartha,
McComber,	Patrick,	Tuuri,
McCoy,	Pearson,	Upsala,
McCron,	Pic,	Vincent,
McCubbin,	Pifher,	Vivian,
McGill,	Poisson,	Walsh,
McGillis,	Priske,	Walters,
McIntyre,	Purdum,	Wardrope,
McIvor,	Pyramid,	Ware,
McKelvie,	Rickaby,	Wiggins,
McLaurin,	Robbins,	Yesno
McMaster,		

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south along O.L.S. Niven's meridian line of 1907 to the southerly extremity thereof; thence continuing south along O.L.S. Speight's meridian line of 1902 to the shore of Lake Superior; thence south astronomically to the International Boundary; thence northwesterly, southwesterly and westerly following the International Boundary to a point in Saganaga Lake where the said boundary is intersected by the southerly production of O.L.S. Niven's meridian line of 1890; thence due north along the said production and continuing along O.L.S. Niven's meridian line of 1890 and the northerly production of the said line, as surveyed by O.L.S. Dobie in 1919 to the centre of the main channel of the waters of Lake

St. Joseph; thence northeasterly along the centre of the main channel of Lake St. Joseph and the Albany River, and the expansions thereof, to the intersection of the northerly production of the meridian surveyed by O.L.S. Speight and van Nostrand in 1925; thence south along the said production and continuing along the meridian run by O.L.S. Speight and van Nostrand in 1925 to the northwest corner of the Township of Bain; thence east astronomically to the northeast corner of the Township of Bell; thence south along the western boundary of the townships of Boyce and Clavet to the southwest corner of the Township of Clavet, the point of commencement.

Provisional  
Judicial  
District of  
Thunder Bay

The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay.

Timis-  
kaming

## 52.—THE TERRITORIAL DISTRICT OF TIMISKAMING

consists of,

- (a) the towns of Charlton, Cobalt, Englehart, Haileybury, Kirkland Lake, Latchford, New Liskeard;
- (b) the Village of Thornloe;
- (c) the geographic townships of,

Alma,	Bucke,	Doyle,
Argyle,	Burt,	Dufferin,
Armstrong,	Cairo,	Dunmore,
Arnold,	Cane,	Dymond,
Auld,	Casey,	Eby,
Baden,	Catharine,	Evanturel,
Banks,	Chamberlain,	Fallon,
Bannockburn,	Charters,	Farr,
Barber,	Childerhose,	Fasken,
Barr,	Chown,	Firstbrook,
Bartlett,	Cleaver,	Flavelle,
Bayly,	Cole,	Fripp,
Beauchamp,	Coleman,	Gamble,
Bernhardt,	Corkill,	Gauthier,
Blain,	Corley,	Geikie,
Bompas,	Dack,	Gillies Limit,
Boston,	Dane,	Grenfell,
Brethour,	Davidson,	Gross,
Brewster,	Donovan,	Harley,
Brigstocke,	Doon,	Harris,
Bryce,	Douglas,	Haultain,

Hearst,	McElroy,	Ray,
Henwood,	McFadden,	Raymond,
Hillary,	McGarry,	Reynolds,
Hilliard,	McGiffin,	Roadhouse,
Hincks,	McKeown,	Robertson,
Holmes,	McNeil,	Robillard,
Hudson,	McVittie,	Rorke,
Ingram,	Medina,	Savard,
James,	Michie,	Sharpe,
Katrine,	Mickle,	Sheba,
Kerns,	Midlothian,	Shillington,
Kimberley,	Milner,	Skead,
Kittson,	Montrose,	Smyth,
Klock,	Morel,	South Lorrain,
Knight,	Morrisette,	Speight,
Lawson,	Mulligan,	Teck,
Lebel,	Musgrove,	Terry,
Leckie,	Nicol,	Trethewey,
Lee,	Nordica,	Truax,
Leith,	North Williams,	Tudhope,
Leo,	Ossian,	Tyrrell,
Leonard,	Otto,	Van Hise,
Lorrain,	Pacaud,	van Nostrand,
Lundy,	Pense,	Wallis,
Maisonville,	Pharand,	Whitson,
Marquis,	Powell,	Willet,
Marter,	Rankin,	Willison,
McArthur,	Ratray,	Yarrow,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of South Lorrain; thence north along the west boundary of the last-mentioned township to the intersection with the southeasterly boundary of the Township of Gillies Limit; thence southwesterly along the southeasterly boundary of the last-mentioned township to the most southerly corner thereof; thence northwesterly along the southwesterly boundary of the last-mentioned township to the southeast corner of the Township of Brigstocke; thence west along the south boundaries of the townships of Brigstocke, Cole and Medina to the southwest corner of the last-mentioned township; thence north along the west boundary of the Township of Medina to the northwest corner thereof; thence west along the south boundaries of the townships of Rorke, McGiffin, Gamble, Corley, Leckie, and Dufferin to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Dufferin, North Williams, Leonard, Tyrrell, Knight, Raymond, Midlothian, Montrose, and Hincks to the



northwest corner of the last-mentioned township; thence west along the south boundaries of the townships of Geikie, Bartlett, Musgrove, Doyle, Childerhose, and Pharand to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Pharand and Hillary to the northwest corner of the last-mentioned township; thence east along the south boundaries of the townships of Keefer, Denton, Thorneloe, Price, Adams, Eldorado, Langmuir, Blackstock, Timmins, McEvay, Tolstoi, Black, Benoit, Melba, Bisley, Clifford, Ben Nevis, and Pontiac to the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the intersection with the production easterly of the south boundary of the Township of South Lorrain; thence west along the said easterly production and the south boundary of the Township of South Lorrain to the point of commencement.

Provisional  
Judicial  
District of  
Timis-  
kaming

The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming. R.S.O. 1970, c. 458, s. 1; 1974, c. 9, s. 1; 1975, c. 48, s. 1, *revised*.

Additional  
municipali-  
ties in  
territorial  
districts

**2.** In addition to the municipalities mentioned in section 1 as being included in the territorial districts, such districts also include the municipalities listed hereunder:

Algoma

### 1.—THE TERRITORIAL DISTRICT OF ALGOMA

includes,

(a) the Improvement District of Dubreuilville;

(b) the townships of,

Day and Bright	Macdonald,	Prince,
Additional,	Meredith and	St. Joseph,
Hilton,	Aberdeen	Tarbutt and Tar-
Jocelyn,	Additional	butt Additional,
Johnson,	Michipicoten,	Thessalon,
Laird,	North Shore,	Thompson,
	Plummer	White River,
	Additional,	Wicksteed.

Cochrane

### 2.—THE TERRITORIAL DISTRICT OF COCHRANE

includes the townships of,

Black River-	Opasatika,
Matheson,	Owens, Williamson and
Eilber and Devitt,	Idington,
Fauquier,	Shackleton and Machin.
Glackmeyer,	

3.—THE TERRITORIAL DISTRICT OF KENORA Kenora

includes,

(a) the improvement districts of Balmertown, Pickle Lake,  
Sioux Narrows;

(b) the townships of,

Barclay	Jaffray and Melick,
Ear Falls,	Machin,
Ignace,	Red Lake.

4.—THE TERRITORIAL DISTRICT OF MANITOULIN Manitoulin

includes the townships of,

Assiginack,	Carnarvon,	Rutherford and
Barrie Island,	Cockburn Island,	George Island,
Billings,	Gordon,	Sandfield,
Burpee,	Howland,	Tehkummāh.

5.—THE TERRITORIAL DISTRICT OF NIPISSING Nipissing

includes,

(a) the Improvement District of Cameron;

(b) the townships of,

Airy,	Chisholm,	Papineau,
Bonfield,	East Ferris,	Springer,
Caldwell,	Field,	Temagami.
Calvin,	Mattawan,	

6.—THE TERRITORIAL DISTRICT OF PARRY SOUND Parry Sound

includes the townships of,

The Archipelago,	Humphrey,	Nipissing,
Armour,	Joly,	North Himsworth,
Carling,	Machar,	Perry,
Chapman,	McDougall,	Ryerson,
Christie,	McKellar,	South Himsworth,
Foley,	McMurrich,	Strong.
Hagerman,		

Rainy River

7.—THE TERRITORIAL DISTRICT OF  
RAINY RIVER

includes,

(a) the Improvement District of Kingsford;

(b) the townships of,

Alberton,	Chapple,	McCrosson and
Atikokan,	Dilke,	Tovell,
Atwood,	Emo,	Morley,
Blue,	La Vallee,	Morson,
		Worthington.

Sudbury

## 8.—THE TERRITORIAL DISTRICT OF SUDBURY

includes the townships of,

Baldwin,	Cosby, Mason and	Ratter and Dunnet,
Casimir, Jennings	Martland,	The Spanish
and Appleby,	Hagar,	River.
Chapleau,	Nairn,	

Thunder Bay

9.—THE TERRITORIAL DISTRICT OF  
THUNDER BAY

includes the townships of,

Beardmore,	Marathon,	Paipoonge,
Conmee,	Nakina,	Red Rock,
Dorion,	Neebing,	Schreiber,
Gillies,	Nipigon,	Shuniah,
Longlac,	O'Connor,	Terrace Bay.
Manitouwadge,	Oliver,	

Timis-  
kaming10.—THE TERRITORIAL DISTRICT OF  
TIMISKAMING

includes,

(a) the improvement districts of Gauthier, Matachewan;

(b) the townships of,

Armstrong,	Dymond,	James,
Brethour,	Evanturel,	Kerns,
Casey,	Harley,	Larder Lake,
Chamberlain,	Harris,	McGarry.
Coleman,	Hilliard,	
Dack,	Hudson,	

**3.** Notwithstanding the express mention herein of certain municipalities as being included in certain counties and districts, every such county and district includes any other municipality situate within the limits thereof. R.S.O. 1970, c. 458, s. 3.

Inclusion of municipalities although not mentioned

# UNITED COUNTIES, ETC.

**4.—(1)** For municipal, judicial and all purposes not otherwise provided for by law, the following counties continue to form unions of counties:

United counties

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Prescott and Russell. R.S.O. 1970, c. 458, s. 4 (1); 1974, c. 9, s. 3.

(2) Each of such unions of counties under the name of the United Counties of . . . . . and . . . . . (naming them), for all purposes, so long as such counties remain united, have in common, as if one county, all courts, offices and institutions established by law, pertaining to counties. R.S.O. 1970, c. 458, s. 4 (2).

Courts, offices and institutions

**5.** For judicial purposes every city is united to and forms part of the county within the limits whereof it is situate; but for municipal purposes such cities and all towns and other municipalities withdrawn from the jurisdiction of the county do not form part of the counties in which they are respectively situate. R.S.O. 1970, c. 458, s. 5.

Cities and towns

**6.** For judicial purposes, the Regional Area as defined in the *Regional Municipality of Niagara Act*, is divided into two judicial districts as follows:

Niagara judicial districts  
R.S.O. 1980, c. 438

1. The Judicial District of Niagara North composed of all the area of the County of Lincoln as it existed on the 31st day of December, 1969.
2. The Judicial District of Niagara South composed of all the area of the County of Welland as it existed on the 31st day of December, 1969. R.S.O. 1970, c. 458, s. 6.

**7.** For judicial purposes, The Municipality of Metropolitan Toronto forms the Judicial District of York.

Judicial District of York

**8.** For judicial purposes, The Regional Municipality of York forms the Judicial District of York Region. 1980, c. 13, s. 1.

Judicial District of York Region



BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES  
AND RIVERS

Limits of  
townships  
bounded by  
certain lakes  
and rivers

**9.**—(1) Except as provided in subsections (2) and (3), the limits of all the townships lying on the St. Lawrence River, Lake Ontario, Niagara River, Lake Erie, the Detroit River, Lake St. Clair, the St. Clair River, Lake Huron (not including the Georgian Bay), the St. Marys River and Lake Superior (not including Thunder Bay, Black Bay and Nipigon Bay), extend to the boundary of the Province of Ontario in such lake or river; in prolongation of the outlines of each township respectively; and unless otherwise provided herein, such townships also include all the islands the whole or the greater part of which are comprised within the said outlines so prolonged. R.S.O. 1970, c. 458, s. 8 (1).

Exception

(2) Subsection (1) does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of The Municipality of Metropolitan Toronto, but in that part the limits of all local municipalities on either side of the Lake extend to the following described line:

Commencing at a point where the east boundary of The Municipality of Metropolitan Toronto meets the International Boundary; thence westerly along the line of the International Boundary to the point of its angle southerly; thence westerly in a straight line to and along the centre line of the Burlington Canal to its point of entry into Hamilton Harbour. 1976, c. 9, s. 1.

Long Point  
R.S.O. 1980,  
c. 401

(3) Subject to the *Provincial Parks Act*, the Township of South Walsingham includes the whole of Long Point. R.S.O. 1970, c. 458, s. 8 (3).

Limits of  
townships on  
the Ottawa  
River

**10.** The limits of the townships lying on the Ottawa River in like manner extend to the boundary between Ontario and Quebec. R.S.O. 1970, c. 458, s. 9.

Limits of  
townships in  
Glengarry

**11.** The limits of the townships in the County of Glengarry in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the St. Lawrence River, and unless otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged. R.S.O. 1970, c. 458, s. 10.

Limits of  
townships  
on Bay of  
Quinte and  
on other  
bays, lakes  
and rivers

**12.**—(1) The limits of the townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nipigon Bay, the Trent River and its lakes, Lake Simcoe, the Severn River,

the Rideau River and its lakes, the Thames River, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, in like manner extend to the middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and unless otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged.

(2) Notwithstanding subsection (1),

Exceptions

- (a) the extended east limit of the Township of Carling and the extended west limit of the Township of McDougall in the waters of Parry Sound are defined by a line drawn south  $20^{\circ} 52'$  east astronomically from the southeast corner of Lot 6, Concession 10 in the Township of Carling; and
- (b) the extended south limits of the townships of McDougall and Carling and the extended north limit of the Township of Cowper in the waters of Parry Sound and the Georgian Bay are defined by a line drawn south  $69^{\circ} 8'$  west astronomically from the southwest corner of the Township of McDougall,

and the townships of Carling, McDougall and Cowper include every island the whole or the greater part of which is included within the limits of such townships as so defined.

(3) Notwithstanding subsection (1), the extended south limit <sup>Idem</sup> of the Township of Baxter and the eastern portion of the extended north limit of the Township of Tay in the waters of the Georgian Bay from the mouth of the Severn River are defined as follows:

Commencing at a point in the waters of the Georgian Bay distant 94 chains, measured on a course of south  $20^{\circ} 52'$  east from the northeast corner of Lot 31, Concession 2, in the Township of Baxter; thence north  $80^{\circ}$  west astronomically 109 chains more or less to a point in a line drawn south astronomically from the southwestern extremity of Potato Island; thence west astronomically 210 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Tay and the Township of Baxter;

Again commencing at the said point of commencement; thence north  $62^{\circ}$  east astronomically 40 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of

Baxter and the Township of Tay; thence northerly and westerly following the midway line between the mainland of the Township of Baxter and the Township of Tay to the intersection with the centre of the main channel of the Severn River at the mouth of the Severn River,

and the townships of Baxter and Tay include every island the whole or the greater part of which is included within the limits of such townships as so defined. R.S.O. 1970, c. 458, s. 11.

Savings as to islands being townships of themselves, etc.

**13.** Sections 9, 10, 11 and 12 do not extend to any islands or parts of islands that are townships by themselves, or that have been expressly included in other townships in the original surveys and plans thereof remaining of record in the office of the Minister of Natural Resources or by statute, but the same remain townships or parts of such other townships respectively. R.S.O. 1970, c. 458, s. 12; 1972, c. 4, s. 12.

Where doubt exists as to township in which any land lies  
R.S.O. 1980, c. 306

**14.** Notwithstanding sections 9, 10, 11 and 12, where doubt exists as to the township in which an island or other tract of land or lands covered with water lies, the Ontario Municipal Board upon application under the *Municipal Corporations Quieting Orders Act* may declare the township in which the same lies. R.S.O. 1970, c. 458, s. 13.

#### POWERS OF LIEUTENANT GOVERNOR IN COUNCIL

Powers of Lieutenant Governor in Council

**15.** The Lieutenant Governor in Council may,

- (a) establish geographic townships in those parts of Ontario in which townships have not been constituted, and declare the name each shall bear and fix the boundaries thereof;
- (b) alter the boundaries of any territorial district or provisional judicial district;
- (c) when no letters patent have been issued granting lands in a township, alter the boundaries or change the name thereof;
- (d) annex any gore or tract of land not forming part of a township to any adjoining township or parts of such gore or tract of land to townships adjoining such parts. R.S.O. 1970, c. 458, s. 14.

## CHAPTER 498

## Theatres Act

## 1. In this Act,

Interpre-  
tation

- (a) “Board” means the Board of Censors referred to in section 3;
- (b) “Director” means the Director appointed under this Act;
- (c) “exhibit”, when used in respect of film or moving pictures, means to show film for viewing for direct or indirect gain or for viewing by the public and “exhibition” has a corresponding meaning;
- (d) “film” means cinematographic film, videotape and any other medium from which may be produced visual images that may be viewed as moving pictures;
- (e) “film depot” means any building or premises in which film is assembled for shipment;
- (f) “film exchange” means the business of renting, leasing, selling or distributing film;
- (g) “inspector” means an inspector appointed under this Act;
- (h) “Minister” means the Minister of Consumer and Commercial Relations;
- (i) “projection equipment” or “projector” means the equipment necessary or used for the transducing from a film to moving images, including equipment for accompanying sound;
- (j) “projection room” means the room in which projection equipment is located while in use;



- (*k*) "projectionist" means a person who operates projection equipment;
- (*l*) "regulations" means the regulations made under this Act;
- (*m*) "standard film" means cinematographic film of 35 millimetres or more in width;
- (*n*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 459, s. 1; 1972, c. 1, s. 56; 1972, c. 3, s. 17 (1); 1975, c. 60, s. 1; 1979, c. 29, s. 1.

## Director

**2.**—(1) The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act and the regulations and he has all the powers of an inspector.

Assistant  
Director

(2) The Lieutenant Governor in Council may appoint an Assistant Director who shall act in lieu of the Director,

(*a*) in the absence of the Director; or

(*b*) when so instructed to act by the Director,

and when so acting has all the powers of the Director.  
R.S.O. 1970, c. 459, s. 2.

## Board

**3.**—(1) The board known as the Board of Censors is continued and shall consist of the Director who shall be chairman of the Board and the Assistant Director who shall be vice-chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint.

## Powers

(2) The Board has power,

- (*a*) to censor any film and, when authorized by the person who submits film to the Board for approval, remove by cutting or otherwise from the film any portion thereof that it does not approve of for exhibition in Ontario;
- (*b*) subject to the regulations, to approve, prohibit or regulate the exhibition of any film in Ontario;

- (c) to censor any advertising matter in connection with any film or the exhibition thereof;
- (d) subject to the regulations, to approve, prohibit or regulate advertising in Ontario in connection with any film or the exhibition thereof;
- (e) to classify any film as adult entertainment;
- (f) to classify any film as restricted entertainment; and
- (g) to carry out its duties under this Act and the regulations.

(3) The Board may designate one or more of its mem- <sup>Idem</sup>bers to exercise the powers of the Board under clauses (2) (c) and (d) and in the exercise of such powers the member or members so designated have a right of entry to any theatre. R.S.O. 1970, c. 459, s. 3.

**4.**—(1) The Lieutenant Governor in Council may ap- <sup>Inspectors</sup>point one or more inspectors who shall carry out such duties as may be assigned to them by this Act or the regulations or by the Director. R.S.O. 1970, c. 459, s. 4 (1).

- (2) It is the duty of an inspector and he has power, <sup>Powers and duties</sup>
- (a) to inspect theatres, buildings or premises occupied by film exchanges, projectors and film;
  - (b) to supervise projectionist's examinations and tests;
  - (c) by order in writing, to prohibit the use or exhibition of any film that he believes on reasonable and probable grounds may not be safely used or exhibited;
  - (d) by order in writing, to prohibit the use of a projector that he believes on reasonable and probable grounds was installed or operated contrary to this Act or the regulations;
  - (e) to seize, remove and hold any projector that he believes on reasonable and probable grounds was installed or was or is operated, or any film or advertising that he believes on reasonable and

probable grounds was exhibited or was or is used, contrary to this Act or the regulations;

- (f) in the performance of his duties to enter any building or premises in which film is exhibited or that is occupied by a film exchange. R.S.O. 1970, c. 459, s. 4 (2); 1971, c. 50, s. 82 (1); 1975, c. 60, s. 2.

Returns to  
be made to  
Director

**5.** The Director may require any person having in his possession or under his control films that have been approved by the Board to make a return to the Director showing the number and names of such films and any other information he may require. R.S.O. 1970, c. 459, s. 5.

Review of  
inspector's  
order

**6.—(1)** Any person to whom an inspector has issued an order under section 4 or who claims an interest in any projector, film or advertising seized by an inspector under section 4 may, within ten days after the issue of such order or after seizure, apply to the Director for a review of the order or release of the projector, film or advertising and the Director may, after a hearing, confirm, vary or annul the order of the inspector or direct the release of the projector, film or advertising.

Forfeiture  
of seized  
projector,  
etc.

(2) Where a projector, film or advertising has been seized by an inspector under section 4,

- (a) if no application for a review of the seizure is made to the Director within ten days after the seizure; or
- (b) if the Director finds after a hearing that the projector, film or advertising was installed, used or exhibited in contravention of this Act or the regulations,

the Director may, subject to appeal as herein provided, direct that the projector, film or advertising is forfeited to the Crown. 1971, c. 50, s. 82 (2).

Obstruction  
of inspector

**7.** No person shall obstruct the Director, Assistant Director, a member of the Board or an inspector in the performance of his duties or furnish him with false information. R.S.O. 1970, c. 459, s. 7.

Police  
officers,  
power of  
entry

**8.—(1)** Every constable and other police officer in the performance of his duties may enter any theatre during an exhibition or performance.

(2) The Fire Marshal, Deputy Fire Marshal and every district deputy fire marshal, inspector or assistant to the Fire Marshal, appointed or designated under the *Fire Marshals Act*, may enter and inspect any theatre. R.S.O. 1970, c. 459, s. 8.

Fire  
Marshal,  
etc.  
R.S.O. 1980,  
c. 166

9.—(1) All licences and renewals, suspensions or cancellations thereof under this Act shall be issued or made by the Director.

Issue,  
renewal,  
suspension,  
etc., of  
licences

(2) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

Continuation  
of licences  
pending  
renewal

(a) until the renewal is granted; or

(b) where he is served with notice of a hearing by the Director, until the decision of the Director has become final.

(3) Where, under this Act, the Director is authorized to refuse to renew or to suspend or cancel a licence after a hearing, the notice of the hearing shall contain a statement of the facts or conduct which the Director believes warrant the intended action and shall afford to the licensee a reasonable opportunity to show or to achieve compliance before such hearing with all lawful requirements for the issue or retention of the licence.

Notice of  
hearing

(4) The Director shall afford to an applicant or licensee who will be affected by a decision pursuant to a hearing, or his representative, an opportunity to examine, before such hearing, any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 82 (3).

Examination  
of  
documentary  
evidence

## THEATRES

10. Theatres are classified and defined as follows:

Classifi-  
cation of  
theatres

1. Class A theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows and theatrical performances.
2. Class B theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows or theatrical performances provided no movable scenery is used.



3. Class C theatre means a building in which standard film is used to exhibit moving pictures and that may be used to exhibit theatrical performances provided no movable scenery is used and no change of dress or costume is made in the theatre.

4. Class D theatre means any premises in which moving pictures are exhibited and viewed by the public from vehicles and commonly known as a drive-in theatre. R.S.O. 1970, c. 459, s. 10.

Theatre  
licence  
required

**11.** No person shall use any building as a Class A, Class B or Class C theatre without a licence therefor under this Act and no person shall use any premises as a Class D theatre without a licence therefor under this Act. R.S.O. 1970, c. 459, s. 11.

Application  
for licence

**12.—**(1) Subject to subsection (2), an applicant for a theatre licence is entitled, on payment of the prescribed fee, to be granted a theatre licence for the class of theatre prescribed by this Act applicable to the building in which the theatre is located, or the premises in which the films are exhibited.

Refusal to  
issue licence

(2) The Director may, after a hearing, refuse to issue a theatre licence to an applicant therefor if,

- (a) a theatre licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or
- (b) the theatre or the building in which the theatre is located or the premises in which films are exhibited do not conform to the requirements of this Act and the regulations. 1971, c. 50, s. 82 (4).

Application  
for renewal

**13.** Subject to section 14, the holder of a theatre licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee. 1971, c. 50, s. 82 (5), *part*.

Refusal to  
renew,  
suspension or  
cancellation

**14.—**(1) The Director may, after a hearing, refuse to renew, or suspend or cancel a theatre licence,

- (a) if the licensee, manager or person in charge of the theatre has contravened any of the provisions of this Act or the regulations and his conduct

raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating the theatre; or

- (b) if the theatre, or the building in which the theatre is located or the premises in which the films are exhibited do not conform to the requirements of this Act and the regulations.

(2) The Director may provisionally suspend a theatre licence if he believes on reasonable grounds that the theatre cannot be safely operated as a theatre and shall immediately give notice of such provisional suspension to the licensee, manager or person in charge of the theatre. Provisional suspension

(3) Where the Director has provisionally suspended a theatre licence under subsection (2), if the licensee, Hearing may be required

- (a) within ten days after receiving notice of the provisional suspension requests the Director to hold a hearing, the Director shall hold a hearing and may thereafter revoke the provisional suspension or, if he finds that the theatre cannot be safely operated, may suspend or cancel the licence; or
- (b) does not request the Director to hold a hearing within ten days after receiving notice of the provisional suspension, the Director may cancel the licence and no new licence in place of it shall be issued until such time as the Director finds, on application of the licensee, that the theatre can be safely operated. 1971, c. 50, s. 82 (5), *part.*

**15.** Every theatre licence shall be displayed at all times in a conspicuous place at the entrance to the theatre. Display of licence  
R.S.O. 1970, c. 459, s. 16.

**16.** No municipality shall, Municipal licence

- (a) license a theatre unless a licence therefor is in force under this Act;
- (b) refuse to licence a theatre when a licence therefor is in force under this Act; or
- (c) charge a greater fee for licensing a theatre than that charged for a theatre licence under this Act in respect of the same theatre. R.S.O. 1970, c. 459, s. 17.

Duty of  
licensee, etc.

**17.** The licensee, manager or person in charge of a theatre is responsible for ensuring that the provisions of this Act and the regulations respecting theatres and the exhibition of moving pictures therein are complied with. R.S.O. 1970, c. 459, s. 18.

Projector,  
approval

**18.** No projector shall be operated in a theatre unless the projection equipment is installed in conformity with this Act and the regulations and has been approved by an inspector. R.S.O. 1970, c. 459, s. 19.

Standing  
areas

**19.—(1)** All aisles, approaches, passageways, exits and stairways in a theatre shall be kept free and unobstructed and the public shall not be permitted to stand therein except in standing areas approved by the Director.

Approval

**(2)** The licensee of every theatre who desires standing areas in the theatre shall submit a plan of the foyer and lobby of the theatre, in triplicate, to the Director who shall indicate on the plan the standing areas approved by him and shall return one copy of the plan to the licensee.

Keeping of  
plan in  
manager's  
office

**(3)** A copy of every plan showing the standing areas approved by the Director shall be kept in the office of the manager in the theatre in respect of which the plan was submitted and shall be available for inspection at all times. R.S.O. 1970, c. 459, s. 20.

Persons  
under twelve  
years attend-  
ing theatres

**20.—(1)** No person apparently under twelve years of age not accompanied by a person apparently sixteen years or more of age shall be permitted to purchase a ticket of admission or be granted admission to an exhibition of moving pictures in a theatre,

(a) after the hour of 7.30 p. m. on any day;

(b) during the school term of public and secondary schools in the municipality in which the theatre is situated, except,

(i) during school holidays between the hours of 9 a.m. and 7.30 p.m., and

(ii) during any other day during the term between the hours of 3.30 p.m. and 7.30 p.m.

Matron

**(2)** Where an exhibition of moving pictures is given in a theatre and persons under twelve years of age not accompanied by persons sixteen years or more of age are permitted to attend, a matron shall be on duty in the theatre.

(3) Every matron shall be eighteen years or more of age <sup>Idem</sup> and dressed in a uniform of a type approved by the Director.

(4) No person apparently under eighteen years of age shall <sup>Persons under 18 years attending a restricted film</sup> be permitted to purchase a ticket of admission or be granted admission to or permitted to remain in a theatre where a restricted film is being exhibited.

(5) In any prosecution for a contravention of subsection <sup>Prosecution under subs. (1) or (4)</sup> (1) or (4), the provincial judge shall determine from the appearance of any person and other relevant circumstances whether he is apparently under the age referred to in subsection (1) or (4), as the case may be. R.S.O. 1970, c. 459, s. 21.

**21.**—(1) Where a fire, panic or accident occurs in a theatre, <sup>Fire, panic, etc.</sup> the licensee or, in his absence, the manager shall immediately notify the Director thereof by telephone or telegraph and, except in the case of a fire confined to the projection room, shall forthwith notify him in writing stating the apparent cause of the fire, panic or accident and any damage or injury resulting therefrom.

(2) In the case of a fire confined to a projection room, <sup>Fire in projection room</sup> the projectionist in charge of the projection room shall forthwith notify the Director in writing stating the apparent cause of the fire and any damage or injury resulting therefrom. R.S.O. 1970, c. 459, s. 22.

**22.**—(1) The national anthem shall be played in every <sup>National anthem</sup> theatre at the commencement of the first or at the conclusion of the last exhibition or performance given each day.

(2) Where a matinee exhibition or performance is given and <sup>Idem</sup> the theatre is closed for any period of time before the evening exhibitions or performances are given, the national anthem shall be played at the commencement or conclusion of the matinee exhibition or performance and at the commencement of the first or at the conclusion of the last evening exhibition or performance given each day. R.S.O. 1970, c. 459, s. 23.

**23.**—(1) Where a film that has been classified as adult <sup>Adult or restricted entertainment</sup> or restricted entertainment is exhibited in a theatre, such signs as the regulations may prescribe indicating that the film exhibited is adult or restricted entertainment shall be displayed in such manner as the regulations may prescribe.



Idem

(2) All advertising matter in connection with a film classified by the Board as adult or restricted entertainment or the exhibition thereof shall indicate in such manner as the regulations may prescribe that the film is adult or restricted entertainment. R.S.O. 1970, c. 459, s. 24.

Prohibiting  
construction  
of theatre  
near church

**24.** The council of a city, town, village or township may pass by-laws prohibiting the construction of a theatre within sixty metres of a church or place of worship. R.S.O. 1970, c. 459, s. 25; 1978, c. 87, s. 14.

#### PROJECTIONISTS

Operation  
of projector  
without  
licence

**25.** No person shall,

(a) operate a projector designed for the use of standard film; or

(b) operate a projector in a theatre,

unless such person is licensed as a projectionist under this Act and no licensee, manager or person in charge of a theatre shall permit any person to operate a projector in a theatre unless such person is licensed as a projectionist under this Act. R.S.O. 1970, c. 459, s. 26.

Licences,  
classification

**26.** Projectionist licences are classified as first class, second class and apprentice. R.S.O. 1970, c. 459, s. 27.

Application  
for examina-  
tions

**27.** An application for examinations and tests for any class of projectionist licence shall be made to the Director accompanied by the prescribed fee. R.S.O. 1970, c. 459, s. 28.

Examinations  
and tests

**28.** The examinations and tests provided by the Director shall be designed to determine the competence and ability of an applicant to act as a projectionist under the class of licence for which he applies. 1971, c. 50, s. 82 (6).

Eligibility  
for re-  
examination

**29.—(1)** Where an applicant fails to pass the examinations and tests required by the Director, he is not eligible to try the examinations and tests a second time until he has worked as an apprentice or as the holder of a second-class licence, as the case may be, for such further period as the Director requires.

Idem

(2) Where an applicant fails to pass the examinations and tests a second time, he is not eligible to try such examinations and tests again except by leave of the Director. R.S.O. 1970, c. 459, s. 29.

**30.**—(1) Subject to subsection (4), the holder of a second-class licence who has passed the examination and tests required by the Director for a first-class licence is entitled, on payment of the prescribed fee, to be issued a first-class licence by the Director.

Licences,  
first-class

(2) Subject to subsection (4), a person,

second-class

- (a) who is the holder of an apprentice licence and who has served as an apprentice for the period prescribed by the regulations; or
- (b) who has operated projection equipment elsewhere than in Ontario for a period longer than the period prescribed by the regulations to be served by an apprentice,

and who has passed the examinations and tests required by the Director for a second-class licence, is entitled, on payment of the prescribed fee, to be issued a second-class licence by the Director.

(3) Subject to subsection (4), a person,

Apprentice

- (a) who is eighteen years or more of age; and
- (b) who furnishes to the Director,
  - (i) proof of age,
  - (ii) satisfactory evidence of physical ability to handle projection and fire-fighting equipment, and
  - (iii) satisfactory evidence that he does not suffer from any physical or mental disability that would prevent him from operating projection equipment safely,

is entitled, on payment of the prescribed fee, to be issued an apprentice licence by the Director.

(4) The Director may, after a hearing, refuse to issue a projectionist licence to a person to whom a projectionist licence was previously issued under this Act if such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist. 1971, c. 50, s. 82 (7), *part.*

Refusal  
to issue

Transfer  
of licence

**31.** Projectionist licences are not transferable. 1971, c. 50, s. 82 (7), *part*.

Renewal

**32.** Subject to section 33, the holder of a projectionist licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee. 1971, c. 50, s. 82 (7), *part*.

Refusal to  
renew,  
suspension or  
cancellation

**33.** The Director may, after a hearing, refuse to renew or suspend or cancel the licence of a projectionist,

(a) if he has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in the operation of a projector; or

(b) if he suffers from any physical or mental disability that prevents him from operating projection equipment safely or from handling fire-fighting equipment. 1971, c. 50, s. 82 (7), *part*.

Responsi-  
bility of  
licensee,  
etc.

**34.** No licensee, manager or person in charge of a theatre shall knowingly permit a projectionist to contravene any of the provisions of this Act or the regulations. R.S.O. 1970, c. 459, s. 35.

#### CENSOR OF FILMS AND ADVERTISING

Approval  
of film

**35.** All film before being exhibited in Ontario shall be submitted to the Board for approval, accompanied by the prescribed fee. R.S.O. 1970, c. 459, s. 36.

Stamping

**36.** When film is approved by the Board, it shall be so stamped. R.S.O. 1970, c. 459, s. 37.

Units for  
approval

**37.—(1)** Every film or class of film submitted to the Board for approval under section 35 shall be in such lengths or units as are prescribed by the regulations and each such length or unit shall be in a container therefor.

Certificate  
to  
accompany  
film

(2) A certificate signed by the chairman or vice-chairman of the Board shall be issued in respect of the approval of the film in each container and shall accompany the film at all times. 1975, c. 60, s. 3.

Lost  
certificates

(3) Where certificates are lost or destroyed, application for duplicate certificates may be made to the Board setting forth the title of the film and the number of certificates lost or destroyed, and accompanied by the prescribed fee. R.S.O. 1970, c. 459, s. 38 (2).

**38.** No person shall exhibit or cause to be exhibited in Ontario any film that has not been approved by the Board. R.S.O. 1970, c. 459, s. 39. Exhibition of film not approved by Board

**39.** No person shall alter or cause to be altered any film from its state as approved by the Board. R.S.O. 1970, c. 459, s. 40. Alteration of film

**40.**—(1) No person shall use or display any advertising matter in connection with film or the exhibition thereof unless a sample of the advertising matter has been approved by the Board. Approval of advertising

(2) Before advertising matter in connection with film or the exhibition thereof is used or displayed in Ontario, a sample thereof in duplicate accompanied by the prescribed fee shall be submitted to the Board for approval. Samples to be submitted to Board

(3) Where a sample of advertising matter is approved by the Board, it shall be so stamped and one sample shall be returned to the person who submitted it. R.S.O. 1970, c. 459, s. 41. Samples stamped approved

#### FILM EXCHANGES

**41.** No person shall carry on the business of a film exchange without a licence therefor from the Director. 1975, c. 60, s. 4. Film exchange licence

**42.**—(1) Subject to subsection (2), an applicant for a film exchange licence is entitled, on payment of the prescribed fee, to be granted a film exchange licence. Film exchange licence, application

(2) The Director may, after a hearing, refuse to issue a film exchange licence to an applicant therefor, Refusal to issue

(a) if a film exchange licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or

(b) where the application is for a standard film exchange licence, if the building in which the film exchange is located,

(i) is not of fire resistive construction in that portion of the building in which film is handled or stored,

(ii) is occupied in whole or in part as a dwelling,

(iii) is occupied in whole or in part by another business that is dangerous to the carrying on of the business of the film exchange, or



(iv) otherwise does not comply with this Act and the regulations. 1971, c. 50, s. 82 (8).

Renewal  
of licence

**43.** Subject to section 45, the holder of a film exchange licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee. 1971, c. 50, s. 82 (9), *part.*

Transfer  
of licence

**44.**—(1) The holder of a film exchange licence is entitled to transfer his licence with the written consent of the Director.

Consent of  
Director

(2) The Director shall not refuse his consent under subsection (1) if the transferee would be entitled to the issue of the film exchange licence if he made application therefor. 1971, c. 50, s. 82 (9), *part.*

Refusal to  
renew,  
suspension or  
cancellation

**45.** The Director may, after a hearing, refuse to renew or suspend or cancel any film exchange licence if,

(a) the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in carrying on the business of a film exchange; or

(b) the issue of a licence would be refused under clause 42 (2) (b) if the licensee were an applicant for a licence. 1971, c. 50, s. 82 (9), *part.*

Distribution  
of standard  
film

**46.** No film exchange shall supply standard film to any person who does not hold a theatre licence under this Act or a licence under this Act to exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act. R.S.O. 1970, c. 459, s. 48.

Distribution  
of advertising  
matter

**47.** No film exchange or agent therefor shall supply any person with advertising matter in connection with film or the exhibition thereof that has not been approved by the Board. R.S.O. 1970, c. 459, s. 49.

Fire loss

**48.** Where a fire occurs in a building or premises occupied by a film exchange or where any film of the film exchange is damaged or lost by reason of a fire elsewhere than in the building or premises occupied by the film exchange, the licensee of the film exchange or, in his absence, the person in

charge shall forthwith notify the Director in writing stating the apparent cause of the fire and any damage or loss resulting therefrom. R.S.O. 1970, c. 459, s. 50.

**49.** No film other than film having a cellulose acetate base <sup>Safety film</sup> or a base having equivalent slow-burning characteristics and commonly known as safety film shall be kept or stored in a film exchange or film depot. R.S.O. 1970, c. 459, s. 51.

#### BUILDING PLANS

**50.**—(1) No person shall construct or alter any building <sup>Approval of building plans</sup> or premises intended for use as a theatre or to be occupied by a film exchange until the plans of the proposed construction or alteration have been submitted to the Director and have been approved by the Director in that they comply with the provisions of this Act and the regulations and provide for the safe operation of the theatre or film exchange.

(2) Before refusing approval of any plans submitted to <sup>Hearing</sup> him under subsection (1), the Director shall hold a hearing of the application for approval. 1971, c. 50, s. 82 (10).

**51.** The Director shall not approve the plans for the construction of a Class D theatre unless there is submitted with the application for such approval a copy of a resolution of the council of the local municipality in which such theatre is proposed to be constructed authorizing the construction of such theatre in the municipality, and such approval shall not be deemed to be a licence under section 11. R.S.O. 1970, c. 459, s. 53. <sup>Municipal authorization for Class D theatres</sup>

**52.** In the event of a conflict between this Act and the <sup>Conflict with building by-laws</sup> regulations and a municipal building by-law, this Act and the regulations prevail. R.S.O. 1970, c. 459, s. 54.

#### MISCELLANEOUS LICENCES

**53.**—(1) No person shall operate a projector designed for <sup>Licence to operate projector</sup> the use of film other than 35 millimetre cinematographic film for hire or gain without a licence therefor from the Director. 1975, c. 60, s. 5.

(2) Subject to section 55, an applicant for a licence under <sup>Issue</sup> this section is entitled, on payment of the prescribed fee, to be issued the licence. 1971, c. 50, s. 82 (11).

Licence to exhibit standard film elsewhere than in theatre

**54.**—(1) No person shall exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act without a licence therefor from the Director. R.S.O. 1970, c. 459, s. 56 (1).

Issue

(2) Subject to section 55, an applicant for a licence under this section is entitled, on payment of the prescribed fee, to be issued the licence. 1971, c. 50, s. 82 (12).

Term of licence

(3) A licence issued under this section remains in force for such term as is specified in the licence. R.S.O. 1970, c. 459, s. 56 (3).

Refusal to issue

**55.**—(1) The Director may, after a hearing, refuse to issue a licence to an applicant for a licence under section 53 or 54 who was previously issued a licence of the type for which he applies if such licence was cancelled and the grounds for such cancellation continue to exist.

Cancellation

(2) The Director may, after a hearing, cancel a licence issued under section 53 or 54 if the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating a projector or exhibiting films pursuant to the licence. 1971, c. 50, s. 82 (13).

#### APPEAL

Suspension period limited

**56.** No licence shall be suspended under this Act for a period longer than three months. 1971, c. 50, s. 82 (14), *part*.

Appeal to judge

**57.**—(1) Any person who considers himself aggrieved by a decision of the Director or Assistant Director under this Act may, within fifteen days after receipt of the decision, appeal to the judge of the county or district court of the county or district,

(a) in the case of a decision relating to a licence for or approval of a theatre or film exchange in which the building or premises to which the decision relates are located; or

(b) in any other case, where the person to whom the decision relates resides,

by applying to the judge for a hearing.

(2) A judge to whom an application is made under sub-section (1) may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension and may give such direction as he considers proper consequent upon the extension. <sup>Extension of time for appeal</sup>

(3) Where a person appeals under this section to a judge, the judge shall appoint a time for and hear the appeal by way of a hearing *de novo* and the judge may affirm or reverse the decision of the Director or make a new decision in substitution therefor and for such purpose has all the powers of the Director to make such decision as he considers proper. <sup>Hearing de novo</sup>

(4) The appellant and the Director or the Assistant Director from whose decision the appeal is taken are parties to an appeal under this section. <sup>Parties</sup>

(5) The oral evidence taken before the judge at a hearing shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court. <sup>Recording of evidence</sup>

(6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 82 (14), *part*. <sup>Findings of fact</sup> <sup>R.S.O. 1980, c. 484</sup>

**58.**—(1) Any party to proceedings before a judge under section 57 may appeal from his decision to the Divisional Court in accordance with the rules of court. <sup>Appeal to court</sup>

(2) Where any party appeals from a decision of a judge, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision was made, which, together with the transcript of the evidence if it is not part of the judge's record, shall constitute the record in the appeal. <sup>Record of proceedings</sup>

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. <sup>Minister entitled to be heard</sup>

(4) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the judge, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 82 (14), *part*. <sup>Powers of court</sup>



Effect of  
appeal on  
suspension,  
etc.

**59.** The bringing of an appeal under section 57 or 58 does not affect the suspension or cancellation of a licence pending the disposition of the appeal. 1971, c. 50, s. 82 (14), *part.*

Amendment  
of suspension,  
etc., by  
Minister

**60.** Where a licence has been suspended or cancelled under this Act pursuant to a decision of the Director or Assistant Director or by a judge or court on appeal therefrom, the Minister may, where he considers that undue hardship will be caused by such suspension or cancellation, and that it is not contrary to the purposes of this Act to do so, annul the suspension or cancellation. 1971, c. 50, s. 82 (14), *part.*

#### OFFENCES

Offence

**61.**—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) knowingly fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1975, c. 60, s. 6.

Application  
of fees

**62.** All fees collected under this Act shall be paid to the Treasurer and shall form part of the Consolidated Revenue Fund. R.S.O. 1970, c. 459, s. 59.

#### REGULATIONS

Regulations

**63.**—(1) The Lieutenant Governor in Council may make regulations,

- 1. prescribing the type of construction, heating, ventilating and lighting for theatres or any class thereof or for buildings or premises occupied or to be occupied

- by film exchanges and regulating and governing the design, construction, alteration, maintenance, repair, heating, ventilating and lighting of theatres or any class thereof or of buildings or premises occupied by film exchanges;
2. prescribing, regulating and governing the equipment to be used for the prevention and extinguishment of fire in theatres or any class thereof or in buildings or premises occupied by film exchanges;
  3. prescribing the equipment, apparatus or furnishings or the type thereof to be used in theatres or any class thereof or in buildings or premises occupied by film exchanges;
  4. regulating and governing the arrangement and use of equipment, apparatus or furnishings in theatres or any class thereof or in buildings or premises occupied by film exchanges;
  5. prescribing the type of construction for vaults to be used for the storage of film or any class or type thereof;
  6. providing that any material to be used in the construction, alteration, maintenance, repair, heating, ventilating or lighting of theatres or any class thereof or of buildings or premises occupied or to be occupied by film exchanges shall be approved by the Director and that any equipment, apparatus or furnishings to be used in theatres or in buildings or premises occupied by film exchanges or the arrangement or use thereof shall be approved by the Director;
  7. regulating and governing the storage of film or any type or class thereof, advertising matter in connection with film or the exhibition thereof, film cement or any flammable material;
  8. providing that film depots shall conform to any of the provisions of this Act or the regulations respecting film exchanges;
  9. prohibiting and regulating the use and exhibition of film or any type or class thereof;
  10. prohibiting and regulating the use and display of any advertising matter in connection with any film or the exhibition thereof;

11. requiring any proportion of films available for distribution to exhibitors or of films exhibited in theatres or any class thereof to be of Canadian manufacture and origin and fixing such proportion on a monthly or yearly basis;
12. prescribing the responsibilities and duties of projectionists or of any class thereof;
13. prescribing the terms and conditions under which projection equipment may be operated;
14. prescribing the terms and conditions under which film or any type or class thereof may be sold, rented, leased, exhibited or distributed;
15. prescribing the nature of the plans to be submitted to the Director under this Act and the qualifications of persons by whom such plans are to be prepared and certified;
16. prescribing the signs that shall be displayed in respect of the exhibition in a theatre of film classified by the Board as adult or restricted entertainment and the manner in which the signs shall be displayed;
17. prescribing the manner in which advertising matter in connection with any film classified by the Board as adult or restricted entertainment or the exhibition thereof shall indicate that the film has been so classified;
18. regulating and governing the conduct of projectionists or other persons in theatres or any class thereof or in buildings or premises occupied by film exchanges;
19. providing for the issue, expiry, renewal and transfer of theatre licences or film exchange licences or any class thereof and prescribing the fees therefor;
20. prescribing the fees to be paid by applicants for examinations and tests for any class of projectionist licence;
21. providing for the issue, expiry and renewal of projectionist licences or any class thereof and prescribing the fees therefor;
22. prescribing the period of time to be served by a person holding an apprentice licence as a pro-

jectionist before he is eligible to be granted a second-class licence as a projectionist;

23. prescribing the fees to be paid for censoring and approving of film or reels or of any type or class of film or reels;
24. prescribing the lengths or units in which film or any class of film shall be submitted to the Board for approval under section 35;
25. prescribing the fees to be paid for censoring and approving of advertising matter in connection with any film or the exhibition thereof;
26. prescribing the fees to be paid for the issue of certificates of approval and duplicates thereof;
27. providing for the issue of licences to exhibit standard film in buildings or premises other than a theatre in respect of which a licence is in force under this Act and prescribing the fees therefor;
28. providing for the issue, expiry and renewal of licences to operate projectors designed for the use of film 16 millimetres in width and prescribing the fees therefor;
29. prescribing forms and stampings and providing for their use;
30. exempting any theatre, film exchange, projector, or film, or any class or type thereof, from any of the provisions of this Act or the regulations. R.S.O. 1970, c. 459, s. 60 (1); 1971, c. 50, s. 82 (16, 17); 1975, c. 60, ss. 7, 8; 1979, c. 29, s. 6.

(2) Any regulation made under this section may be limited <sup>Limitation</sup> as to time or place, or both.

(3) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of <sup>Expressions defined in regulations</sup> the regulations. R.S.O. 1970, c. 459, s. 60 (2, 3).





CHAPTER 499

Ticket Speculation Act

1. In this Act, "ticket" means a card, pass or other document upon presentation of which the holder is entitled to admission to any theatre, opera house, public hall, show, game, grandstand, race meeting, exhibition or amusement of any kind. R.S.O. 1970, c. 460, s. 1.

Interpre-  
tation

2. Every person who, Offences:

- (a) being the holder of a ticket, sells or disposes of the ticket at a higher price than that at which it was first issued, or endeavours or offers so to do; or
- (b) purchases or attempts to purchase tickets with the intention of reselling them at a profit, or purchases or offers to purchase tickets at a higher price than that at which they are advertised or announced to be for sale by the owner or proprietor of any place mentioned in section 1,

selling

purchasing  
as a specu-  
lation or at  
a higher  
price than  
advertised

is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$50. R.S.O. 1970, c. 460, s. 2.

3. This Act does not apply to the sale of tickets by the proprietor of a shop or hotel stand or his servant when such proprietor is an agent of a theatre, opera house, public hall, or grandstand, or of the owner or promoter of a show, game, race meeting, exhibition, or amusement of any kind for the sale of tickets, and where the commission charged upon the sale of each ticket does not exceed the maximum prescribed in the Schedule to this Act. R.S.O. 1970, c. 460, s. 3.

Exception  
as to sale  
on commis-  
sion at hotel  
stands and  
stores

SCHEDULE

Price of Ticket	Maximum Commission
Up to \$1.99.....	.25
\$2.00 to \$2.99.....	.35
3.00 to 3.99.....	.45
4.00 and up.....	.50



CHAPTER 500  
Tile Drainage Act

1. In this Act,

Interpre-  
tation

- (a) “drainage work” means a drainage system constructed of tile, pipe or tubing of any material beneath the surface of agricultural land, including integral inlets and outlets, for the purpose of improving the productivity of the land drained ;
- (b) “municipality” means a city, town, village, township or improvement district ;
- (c) “prescribed” means prescribed by the regulations made under this Act. 1971, c. 37, s. 1.

2.—(1) Subject to sections 64 and 65 of the *Ontario Municipal Board Act*, the council of a municipality may pass by-laws in the prescribed form authorizing the borrowing of money from the Treasurer of Ontario for the purpose of lending the money for the construction of drainage works and the issuance of debentures in the prescribed form by the municipality or by a district or regional municipality on its behalf.

Borrowing  
powers of  
municipali-  
ties  
R.S.O. 1980,  
c. 347

(2) Within four weeks after the passing of a by-law under subsection (1), the clerk of the municipality shall register a duplicate original or a copy of it, certified under his hand and the seal of the municipal corporation, in the land registry office for the registry division in which the municipality is situate or, if the municipality comprises two or more registry divisions, in one of them.

Registration  
of by-law

(3) Every by-law registered in accordance with subsection (2), unless an application or action to quash the by-law is made or brought in a court of competent jurisdiction within four weeks after the registration, is valid and binding according to its terms.

When by-law  
to be valid,  
where no  
application  
to quash

(4) If an application or action to quash the by-law is made or brought within four weeks of the registration of the by-law and is dismissed, a certificate of the dismissal shall be

Where  
application  
to quash  
dismissed



registered in the land registry office in which the by-law was registered, and, after such dismissal, the by-law is valid and binding according to its terms.

Offer to  
sell  
debentures  
to the  
Province

(5) After the expiration of four weeks from registration of the by-law under subsection (2), a certified copy of the by-law shall be deposited with the Treasurer of Ontario together with an affidavit of the clerk of the municipality in the prescribed form stating that no application or action to quash the by-law has been made or brought, or, if an application or action has been made or brought, that it has been dismissed and the certificate of such dismissal has been registered, and the debentures authorized by the by-law may thereafter be offered for sale to the Province of Ontario. 1971, c. 37, s. 2.

Application  
by owner  
for loan

**3.—**(1) An owner of agricultural land who is assessed as the owner thereof in the municipality or, where at any time after the return of the assessment roll and before the return of the assessment roll in the following year, the land is conveyed to some other person, such other person may make application to the council of the municipality in the prescribed form to borrow money for the purpose of constructing a drainage work on such agricultural land.

Members of  
council not  
disqualified  
by loan

(2) No person by reason of having borrowed money under this Act is disqualified from being elected as a member of council or from sitting or voting therein, but no member of council shall vote on any question affecting an application for a loan in which he has an interest. 1971, c. 37, s. 3 (1, 2).

Discretion  
of council

(3) The approval of any application under subsection (1) is in the discretion of the council whose decision is final and written notice of the decision shall forthwith be given to the applicant. 1971, c. 37, s. 3 (3).

Appeal  
to The  
Ontario  
Drainage  
Tribunal  
R.S.O. 1980,  
c. 126

(4) Where the council refuses an application or reduces the amount applied for, the applicant may appeal to The Ontario Drainage Tribunal established under the *Drainage Act* by serving upon the clerk of the municipality written notice of appeal within twenty days of the delivery of the notice of decision referred to in subsection (3).

Tribunal may  
confirm or  
alter  
decision of  
council

(5) Upon an appeal to the Tribunal under subsection (4), the Tribunal may confirm or alter the decision of the council and may make such order as it considers proper. 1975, c. 80, s. 1 (2).

Coming into  
force of  
subss. (4, 5)

(6) Subsections (4) and (5) do not come into force until a day to be named by proclamation of the Lieutenant Governor.

(7) On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is amended by striking out "whose decision is final" in the second line. 1975, c. 80, s. 8. Amendment to subs. (3)

4. The council of a municipality borrowing money under this Act shall employ an inspector of drainage who shall inspect the drainage work and file with the clerk an inspection and completion certificate in the prescribed form, together with a sketch indicating the location, spacing, direction and depth of the tile as laid, and the cost of such services by the inspector shall be charged against the drainage work inspected and shall be paid out of the money borrowed and deducted from the amount loaned under section 7. 1971, c. 37, s. 4; 1975, c. 80, s. 2. Appointment of inspector

5.—(1) After the receipt of the inspection and completion certificate, the council may issue a debenture payable to the Treasurer of Ontario with respect to the funds to be loaned by the municipality, and, in the case of a municipality within a district or regional municipality, the council may request the district or regional municipality to issue the debenture on its behalf. 1971, c. 37, s. 5 (1). Debentures may be issued after receipt of inspector's certificate

(2) A municipality, or a district or regional municipality, on behalf of one or more municipalities, shall not issue more than one debenture in any month, the amount of which may combine amounts to be loaned by the municipality or municipalities with respect to a number of drainage works. 1975, c. 80, s. 3. Municipality not to issue more than one debenture per month

(3) The amount of each debenture issued to the Treasurer of Ontario shall be in the sum of \$100 or any multiple thereof and shall not exceed the amount of the loan or loans with respect to which the debenture is issued nor 75 per cent of the total cost of the drainage work or works with respect to which the debenture is issued. Amount of debentures

(4) The interest rates applicable to debentures, both before and after maturity, issued under this Act shall be determined from time to time by the Lieutenant Governor in Council. Interest rates on debentures

(5) The term of the debentures shall be for a period of ten years and shall be repayable by equal annual instalments of principal and interest each due on the anniversary date of the debenture. Term of debentures

(6) The debentures shall provide that the municipality or district or regional municipality, as the case may be, may at any time prepay the whole amount of principal and interest owing at the time of such prepayment. Prepayment

Date of  
debentures

(7) Each debenture shall be dated the first day of the month following the month in which it is delivered to the Treasurer of Ontario.

Offer to  
sell

(8) An application requesting the Treasurer of Ontario to purchase a debenture shall be by way of an offer to sell in the prescribed form and shall accompany the debenture delivered to the Treasurer of Ontario. 1971, c. 37, s. 5 (3-8).

Purchase and  
validation of  
debentures

6. The Treasurer of Ontario may purchase, acquire and hold debentures issued under the authority of this Act and pay therefor out of the Consolidated Revenue Fund. 1971, c. 37, s. 6.

Terms on  
which  
council  
shall lend  
money

7. The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof for a term of ten years at a rate of interest equal to that set out in the debenture by which the funds are borrowed, but the amount loaned to any one applicant shall not exceed the amount applied for nor 75 per cent of the total cost of the drainage work with respect to which the loan is made. 1971, c. 37, s. 7.

Collection  
of special  
rate

8. The council shall impose by by-law in the prescribed form and, subject to section 13, shall levy and collect for the term of ten years, over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge in ten years the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of the *Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply. 1971, c. 37, s. 8.

R.S.O. 1980,  
c. 302

Repayment  
where land  
use is  
changed

9.—(1) Where, at any time before a loan is repaid, the council of a municipality is satisfied that the land is no longer being used for agriculture, the balance of the loan, together with interest thereon, shall become immediately due and payable and such amount may be added to the taxes for the current year.

Amounts  
to be  
remitted  
to  
Treasurer

(2) Any amounts collected under subsection (1) shall forthwith be remitted to the Treasurer of Ontario or his assignee who shall apply them towards payment of the debentures of the municipality or district or regional municipality. 1975, c. 80, s. 4.

Repayment  
by municipi-  
pality to  
Province

10.—(1) The amount payable in each year for principal and interest shall be remitted to the Treasurer of Ontario,

(a) in the case of debentures issued prior to the 1st day of September, 1971, not later than the 10th day of the month next following the month in which the payment fell due; and

(b) in the case of debentures issued on or after the 1st day of September, 1971, on or before the due date. 1975, c. 80, s. 5.

(2) In the event of default in any such payment, interest thereon shall accrue during the time of such default and the rate of such interest shall be determined from time to time by the Lieutenant Governor in Council. 1971, c. 37, s. 9 (2).

Interest  
when  
default in  
payment

**11.**—(1) The Minister of Agriculture and Food, subject to the approval of the Lieutenant Governor in Council may, from time to time, prescribe the manner in which drainage works shall be initiated and carried out in territory without municipal organization and the manner in which and the terms and conditions under which loans may be made to persons out of the moneys appropriated therefor by the Legislature.

Loans in  
territory  
without  
municipal  
organiza-  
tion

(2) The amount loaned to any one person under subsection (1) shall not exceed 75 per cent of the total cost of the work and shall constitute a lien upon the estate or interest of the owner in the land upon which the work was done and where repayment of the amount so loaned is in default such amount may be deducted from any moneys payable by Ontario to the person under any other Act and may be recovered by proceedings in any court of competent jurisdiction.

Lien

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 80, s. 6.

Expenditure

**12.**—(1) Where a part of a parcel of land in respect of which money has been lent under this Act is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining.

Sale of  
part of  
land with  
respect to  
which money  
lent

(2) The clerk of the municipality shall give the owners of the parts into which the land is divided at least ten days notice in writing by registered mail of the time and place the council will make the apportionment.

Notice

(3) The council in making the apportionment shall have regard to the effect of the drainage work on each part into which the parcel of land is divided and such other matters as it considers appropriate, and the decision of the council with respect to the apportionment is final.

Apportion-  
ment of  
rate



Filing of  
order of  
apportion-  
ment

(4) The order of apportionment shall be filed with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. 1971, c. 37, s. 10.

Discharge of  
indebtedness  
by owner

**13.** The owner of agricultural land in respect of which money has been borrowed under this Act may at any time obtain a discharge of the indebtedness by paying to the treasurer of the municipality the amount outstanding together with accrued interest at the rate at which the funds were borrowed, and any amounts so paid shall be forthwith remitted by the treasurer of the municipality to the Treasurer of Ontario or his assignee who shall apply them towards payment of the debentures of the municipality or district or regional municipality. 1971, c. 37, s. 11; 1975, c. 80, s. 7.

Regulations

**14.** The Lieutenant Governor in Council may make regulations for the purposes of this Act prescribing forms and defining any word or expression not defined in this Act. 1971, c. 37, s. 12.

## CHAPTER 501

## Time Act

1. Where an expression of time occurs in any Act, proclamation, regulation, order in council, rule, order, by-law, agreement, deed or other instrument, heretofore or hereafter enacted, made or executed, or where any hour or other point in time is stated either orally or in writing, or any question as to time arises, the time referred to or intended shall, unless it is otherwise specifically stated, be held to be time reckoned as standard time. R.S.O. 1970, c. 462, s. 1.

Meaning of  
expressions  
of time

2.—(1) Standard time in the part of Ontario that lies east of the meridian of 90°W. longitude shall be reckoned as five hours behind Greenwich time.

Standard  
time east  
of 90°W.  
longitude

(2) Standard time in the part of Ontario that lies west of the meridian of 90°W. longitude shall be reckoned as six hours behind Greenwich time.

West of  
that  
meridian

(3) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection (1) or (2). R.S.O. 1970, c. 462, s. 2.

Power  
to vary



## CHAPTER 502

### Tobacco Tax Act

#### 1. In this Act,

Interpre-  
tation

- (a) “consumer” means any person who,
- (i) in Ontario, purchases or receives delivery of tobacco, or
  - (ii) in the case of a person ordinarily resident in Ontario or carrying on business in Ontario, brings into Ontario tobacco acquired outside Ontario,
- for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by him or other persons at his expense, but does not include a dealer;
- (b) “dealer” means any person who in Ontario sells tobacco or offers or keeps tobacco for sale, either at wholesale or at retail;
- (c) “Minister” means the Minister of Revenue;
- (d) “package” includes a box, tin or other container in which tobacco is sold at retail;
- (e) “regulations” means the regulations made under this Act;
- (f) “retail dealer” means any person who sells tobacco to a consumer;
- (g) “retail sale” means a sale to a consumer;
- (h) “tobacco” means tobacco in any form in which it is used or consumed, and includes snuff;
- (i) “Treasurer” means the Treasurer of Ontario and Minister of Economics;



- (j) "wholesale dealer" means any person who sells in Ontario tobacco for the purpose of resale. R.S.O. 1970, c. 463, s. 1; 1978, c. 62, s. 16 (3).

Tax on  
consumers

**2.**—(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows:

- (a) 1.2 cents on every cigarette purchased by him;
- (b) 0.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 3 cents on every cigar purchased by him for a price at retail of not more than 9 cents;
- (d) 45 per cent of the price at retail of every cigar that is purchased by him for a price at retail of more than 9 cents, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent. 1979, c. 17, s. 1.

Collection  
of tax

(2) The tax imposed by this Act shall be collected from the consumer by the retail dealer as agent of the Minister at the time of the sale to the consumer and shall be remitted by the retail dealer to the Minister at the time and in the manner prescribed by the regulations.

M.L.A.s  
not dis-  
qualified

(3) No person acting as agent under subsection (2) shall thereby be made ineligible as a member of the Assembly. R.S.O. 1970, c. 463, s. 2 (2, 3).

Amounts in  
lieu of tax

(4) Where any person selling tobacco receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act. 1977, c. 11, s. 1 (2).

Wholesale  
dealer's  
permit

**3.**—(1) No person shall sell tobacco in Ontario for resale unless he holds a subsisting wholesale dealer's permit issued to him under this Act.

(2) No person shall sell tobacco in Ontario to a consumer unless such person holds a subsisting vendor's permit issued to him under the *Retail Sales Tax Act*.

Retail  
vendor's  
permit  
required  
R.S.O. 1980,  
c. 454

(3) No wholesale dealer shall sell tobacco in Ontario to a person who does not hold a subsisting vendor's permit issued to him under the *Retail Sales Tax Act*. R.S.O. 1970, c. 463, s. 3.

Sale to  
retail  
vendor

4. The Minister may suspend or cancel the permit of any wholesale dealer who,

Suspension  
or cancella-  
tion of  
wholesale  
dealer's  
permit

(a) refuses or neglects to account for and pay as herein required moneys received by him as proceeds of the tax; or

(b) refuses or neglects to furnish security when so required under the regulations,

but, before a suspension or cancellation is made, the wholesale dealer shall be afforded an opportunity to appear before the Minister to show cause why the permit should not be suspended or cancelled, as the case may be. R.S.O. 1970, c. 463, s. 4; 1979, c. 17, s. 2.

5. Every person ordinarily resident in Ontario or carrying on business in Ontario who brings into Ontario or who receives delivery in Ontario of tobacco acquired for value by him for his own consumption or use or for the consumption or use by other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such tobacco for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Minister and shall supply the Minister with the invoice and all other pertinent information required from him by the Minister in respect of the consumption or use of such tobacco, and shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such tobacco as would have been payable if the tobacco had been purchased in Ontario. R.S.O. 1970, c. 463, s. 5.

Tobacco  
brought  
into or  
received  
in Ontario

6.—(1) No wholesale dealer shall dispose of his stock of tobacco through a sale in bulk as defined in the *Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment. 1977, c. 11, s. 2; 1979, c. 17, s. 3.

Sales of  
tobacco  
under  
R.S.O. 1980,  
c. 52

Idem

R.S.O. 1980,  
c. 52

(2) Every person purchasing tobacco stock through a sale in bulk as defined in the *Bulk Sales Act* shall obtain from the wholesale dealer selling such stock the duplicate copy of the certificate furnished under subsection (1), and if he fails to do so, he is responsible for payment to the Treasurer of all taxes collectable or payable under this Act by the wholesale dealer thus disposing of his tobacco stock through a sale in bulk. R.S.O. 1970, c. 463, s. 6 (2).

Absorption  
of tax

7. No retail dealer shall advertise or hold out or state to the public or to any consumer directly or indirectly that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retail dealer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded. R.S.O. 1970, c. 463, s. 7.

Tax moneys  
are trust  
moneys

8.—(1) Every person who collects any tax imposed by this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and shall pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations. R.S.O. 1970, c. 463, s. 8 (1).

Default in  
payment  
over to  
Treasurer

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due from such person to Her Majesty in right of Ontario. 1979, c. 17, s. 4.

Compensation  
to whole-  
sale dealers

(3) For each twelve-month period commencing on the 1st day of April, there may be paid to each wholesale dealer designated a collector under this Act or the regulations the lesser of,

(a) \$1,000; or

(b) the aggregate of,

(i) 4 per cent of the tax collected by him in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,

(ii) \$3 for each return with respect to tax collected by him in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and

- (iii) the tax collected by him in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3.

as compensation for his services in collecting and remitting the tax imposed by this Act, and such collector may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations. 1976, c. 24, s. 2; 1977, c. 11, s. 3 (2); 1978, c. 5, s. 2.

9.—(1) Every person designated a collector according to the regulations shall, without notice or demand, deliver to the Minister, at the time and in the manner prescribed by the regulations, a return of tax, that he, as agent of the Minister, is responsible to collect, and shall, at the time and in the manner prescribed by the regulations, remit such tax with his return. Returns by collector

(2) Every return shall be verified by a certificate of the Idem person designated a collector according to the regulations and, if such person is not an individual, of any one of its officers or servants or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of such person and exhibit truly, correctly and completely all information for the period covered by the return.

(3) Every person designated a collector according to the regulations who files a return after the time prescribed by the regulations shall pay, when assessed therefor, a penalty of, Penalty for late filing

(a) \$10; or

(b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall such penalty be more than \$500.

(4) Every person designated a collector according to the regulations who fails to file a return as required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of \$200. Offence

(5) Every person designated a collector according to the regulations who fails to complete the information required in the return to be delivered to the Minister under sub- Idem



section (1) is guilty of an offence and on conviction is liable to a fine of \$200. 1977, c. 11, s. 4, *part*.

**Assessment**

**10.**—(1) The Minister may, at any time he considers reasonable, assess or reassess any tax that any person, as agent of the Minister, has collected and has failed to remit and any tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

**Assessment  
on inspection**

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any consumer or dealer that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collectable or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of tax that any person as agent of the Minister has collected and has failed to remit and the amount of the tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

**Notice of  
Assessment**

(3) Where the Minister has made an assessment under subsection (1) or (2), he shall deliver a notice of assessment by personal service or shall send such notice of assessment by mail or registered mail to the person so assessed at his last known address, or where the person has more than one address, one of which is in Ontario, to his address in Ontario, and the amount of the assessment shall, subject to subsection (4), be remitted to the Treasurer by the person so assessed within thirty days from the date of personal service or mailing of the notice of assessment.

**Idem**

(4) Where the Minister has made an assessment under subsection (1) or (2), the notice of assessment may provide that the amount assessed is payable forthwith.

**Continuation  
of liability  
for tax**

(5) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

**Minister  
not bound  
by returns**

(6) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding that any return or information has been delivered, assess the tax payable under this Act.

**Assessment  
valid and  
binding**

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

(8) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. 1977, c. 11, s. 4, *part.* <sup>Idem</sup>

**11.**—(1) Any amount that is payable or to be remitted to the Treasurer under this Act or the regulations, or that is payable as a penalty imposed under this Act otherwise than a penalty imposed as a result of a prosecution for an offence under this Act, bears interest at the rate prescribed by the regulations from the day on which the amount should have been paid or remitted to the day of payment. <sup>Unpaid taxes to bear interest</sup>

(2) Any payment to the Treasurer under this Act that is not a fine shall first be applied to any interest payable by the person making a payment or on whose account payment is made. <sup>Payment applied first to interest</sup>

(3) Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable by any person under this Act be paid, the Minister may exempt the person from any payment of the whole or any part of such interest. 1977, c. 11, s. 4, *part.* <sup>Exemption from payment of interest</sup>

**12.**—(1) Where a person objects to an assessment made under section 10, he may, within ninety days from the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the form prescribed by the regulations setting out the reasons for the objection and all relevant facts. <sup>Notice of objection</sup>

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. <sup>Service</sup>

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. 1977, c. 11, s. 4, *part.* <sup>Reconsideration</sup>

**13.**—(1) After the Minister has given the notification required by subsection 12 (3), a person who has served notice of objection under section 12 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days <sup>Appeal</sup>

from the day notice has been mailed to such person under subsection 12 (3).

Appeal, how  
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the form prescribed by the regulations and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Content of  
notice of  
appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

Reply to  
notice of  
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due dispatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter  
deemed  
action

(6) Upon the filing of the material referred to in subsection (5), the matter shall be deemed to be an action in the court.

Disposition  
of appeal

(7) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

- (iv) referring the assessment back to the Minister for reconsideration and reassessment.

(8) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper. <sup>Idem</sup>

(9) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under subsection (6), and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. <sup>Procedure</sup>

(10) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act. <sup>Irregularities</sup>

(11) The time within which a notice of objection under subsection 12 (1) or a notice of appeal under subsection (1) of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. 1977, c. 11, s. 4, *part*. <sup>Extension of time</sup>

**14.—**(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and may, <sup>Investigation</sup>

- (a) audit or examine any books and records and any account, voucher, letter, telegram or other document that relates or may relate to the tax imposed by this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertain-



ing the information that is or should be in the books or the amount of any tax imposed by this Act;

- (c) require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if such dealer is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such dealer to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams or other documents and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 463, s. 9 (1); 1978, c. 5, s. 3.

Demand  
for  
information

(2) The Minister may, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation or from his or its agent or officer any information or the production or production under oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents in the possession or control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of administering or enforcing this Act or of determining what tax, if any, is collectable or payable under this Act and production of such information or documentation shall be made within such reasonable time as is stipulated in such registered letter or demand. 1980, c. 27, s. 1 (1).

Authority  
to enter  
and search

(3) The Minister may, for any purpose related to the administration or enforcement of this Act and the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations,

and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 463, s. 9 (4); 1972, c. 1, s. 1.

(4) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made under this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. R.S.O. 1970, c. 463, s. 9 (6); 1972, c. 1, s. 1. Copies

(5) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing. Interference

(6) The Minister at any time for any purpose related to the administration or enforcement of this Act and the regulations may require a dealer to complete an inventory report showing all tobacco in his possession in respect of which the tax imposed by this Act has not been paid. R.S.O. 1970, c. 463, s. 9 (7, 8). Inventory report

**15.—**(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person to make such inquiry as the Minister considers necessary with reference thereto. Inquiry

(2) For the purpose of an inquiry under subsection (1), the person authorized to make the inquiry has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 463, s. 10; 1971, c. 49, s. 18. Powers  
R.S.O. 1980,  
c. 411

(3) For the purpose of determining if the tax imposed by this Act has been or may be evaded, any person thereunto authorized by the Minister may stop and detain in Ontario any commercial motor vehicle as defined in the *Highway Traffic Act*, including any trailer attached to such vehicle, and may examine the contents thereof including any cargo, manifests, records, accounts, vouchers, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and may seize and take away any of such manifests, records, accounts, or vouchers and retain them until they are produced in any court proceedings. Detention  
of  
commercial  
motor  
vehicle  
R.S.O. 1980,  
c. 198

Seizure  
and  
disposal of  
cigarettes  
R.S.O. 1980,  
c. 454

(4) Where more than 10,000 cigarettes are found in the control of a person who does not hold a subsisting wholesale dealer's permit issued under this Act or a subsisting vendor's permit issued under the *Retail Sales Tax Act* or are being transported or stored in Ontario by or for such person, any person thereunto authorized by the Minister may, subject to subsections (5), (6) and (7), seize, impound, hold and dispose of such cigarettes.

Recovery  
of seized  
cigarettes

(5) Cigarettes seized under subsection (4) shall be forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days after their seizure, the person from whom they have been seized furnishes security to the Minister for the collection of the tax imposed by this Act in respect of the consumption of the cigarettes or has applied for and been issued a wholesale dealer's permit under this Act.

Costs of  
Minister  
to be paid

(6) If within thirty days after the seizure of cigarettes under subsection (4) the person from whom they have been seized furnishes security to the Minister or applies for and is issued a wholesale dealer's permit, the cigarettes so seized shall be returned to such person upon payment by him of all costs incurred by the Minister in seizing, impounding and holding the cigarettes.

Proceeds  
of sale of  
cigarettes

(7) Where, under subsection (5), a sale of cigarettes is directed by the Minister, the proceeds of such sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the cigarettes shall be applied firstly against the indebtedness under this Act, if any, of the person in whose control the cigarettes were prior to seizure and shall then be paid into the Consolidated Revenue Fund. 1980, c. 27, s. 2.

Recovery  
of tax

**16.—**(1) Upon default of payment by any person of any amount payable, or to be remitted under this Act as tax, interest, or a penalty, other than a penalty imposed as a result of a prosecution for an offence under this Act,

- (a) the Minister may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax, interest and penalty or any

of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. 1977, c. 11, s. 4, *part*; 1979, c. 17, s. 5.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Compliance to  
be proved by  
affidavit

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario. 1977, c. 11, s. 4, *part*.

Remedies  
for recovery  
of tax

**17.**—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Garnishment

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Idem

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

Liability  
of debtor

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business

Service of  
garnishee



under a name and style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

Garnishment  
of wages  
R.S.O. 1980,  
c. 526

(6) Subject to the *Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Failure  
to remit

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. 1977, c. 11, s. 4, *part*.

Penalty  
for  
failure  
to remit tax

**18.**—(1) Every person designated a collector according to the regulations who fails to remit with any return he is required to file under this Act or the regulations the amount of taxes collectable or payable by him shall, when assessed therefor, pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was collectable and of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or

(b) \$500 if the amount of such tax was \$10,000 or more.

Failure  
to complete  
return

(2) Every person designated a collector according to the regulations who fails to complete the information required on any

return to be delivered under the Act or the regulations is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

(3) Every person who has,

False  
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a dealer or consumer;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a dealer or consumer;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit any offence described in clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than 25 per cent of the tax that should have been declared to be collectable or payable or that was sought to be evaded and to not more than double the amount of such tax or to imprisonment for a term of not more than two years or to both. 1980, c. 27, s. 3.

**19.** Every dealer who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount of tax that he failed to collect. 1977, c. 11, s. 4, *part*.

Penalty for  
failure to  
collect

**20.** Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1977, c. 11, s. 4, *part*.

Liability of  
officers of  
corporations

Penalty  
for selling  
tobacco with  
no wholesale  
dealer's  
permit

**21.**—(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty computed as follows:

- (a) \$3 for every carton of cigarettes so sold by him;
- (b) 1 cent for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold by him;
- (c) 50 per cent of the price at which each cigar was so sold by him.

Offence

(2) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so sold by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained or to imprisonment for a term of not more than two years. 1980, c. 27, s. 4.

Information  
to be secret

**22.**—(1) Subject to subsection (2), no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Communi-  
cation of  
information  
to other  
jurisdictions

(2) The Minister may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. R.S.O. 1970, c. 463, s. 12.

General  
penalty

**23.**—(1) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable, for a first

offence, to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both, and, for any subsequent offence, to a fine of not less than \$500 and not more than \$1,000 or to a term of imprisonment of not less than three months and not more than six months, or to both. R.S.O. 1970, c. 463, s. 13.

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so purchased by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained and is in addition liable to imprisonment for a term not exceeding six months. 1977, c. 11, s. 5. Offence

(3) Every person who contravenes section 14 is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default continues. 1980, c. 27, s. 5. Idem

**24.** Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards. R.S.O. 1970, c. 463, s. 14. Information to be laid within three years

**25.** The fines imposed for offences under this Act are payable to the Treasurer. R.S.O. 1970, c. 463, s. 15. Disposition of fines

**26.—(1)** Where a person has remitted to the Treasurer a greater amount of money for a period than was required by this Act to be remitted for that period, or a greater amount than was payable by the person, the Treasurer shall either refund the overpayment or, at the option of the Minister, apply the amount of the overpayment to liability of the person with respect to a previous or subsequent period, in which latter case the Minister shall notify the person of such action. 1977, c. 11, s. 6, *part*. Over-payments

(2) No refund under subsection (1) shall be made unless an application for the refund is made to the Minister within three years from the date of payment of the amount a refund of which is sought, and unless evidence satisfactory to the Minister is furnished to establish the entitlement of the applicant to the refund claimed. Limitation

(3) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 13, the person assessed or reassessed Saving



or the appellant, as the case may be, has overpaid the tax, interest or penalty payable under this Act, the amount of such overpayment shall be refunded or applied to liability of such person in accordance with subsection (1) notwithstanding the limitation contained in subsection (2). 1979, c. 17, s. 6.

Overpay-  
ments

(4) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than \$5 in which event no interest need be paid or applied under this subsection.

Idem

(5) Where by a decision of the Minister under section 12 or by a decision of the court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection (4) on the overpayment shall be computed at the rate prescribed by the regulations. 1977, c. 11, s. 6, *part*.

Refunds

**27.** Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Treasurer, and the sections of this Act relating to the assessment (including objection and appeal therefrom) and collection of taxes apply with necessary modifications to the said amount. 1977, c. 11, s. 6, *part*.

Regulations

**28.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the collection of the tax imposed by this Act and designating the persons by whom it is to be collected;
- (b) providing for compensation to be paid to dealers out of tax collected by them in cases where a dealer is required to complete an inventory under subsection 14 (6), and prescribing the conditions under which such compensation will be paid;
- (c) requiring security to be furnished by the persons who collect the tax imposed by this Act and prescribing the form and amount of the security to be furnished;

- (d) providing for the accounting for and paying over of the tax imposed by this Act, and regulating the time and manner of such accounting and payment;
- (e) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;
- (f) providing for the extension of time for making returns;
- (g) establishing a system of permits for wholesale dealers;
- (h) respecting agreements between the Minister and the persons who collect the tax imposed by this Act, and providing for their use;
- (i) prescribing the rate of interest payable on amounts payable to or to be remitted to the Treasurer under this Act;
- (j) excluding any class of tobacco products from this Act;
- (k) exempting any class of persons from the payment of the tax imposed by this Act;
- (l) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;
- (m) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act;
- (n) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of

this Act. R.S.O. 1970, c. 463, s. 16; 1972, c. 1, s. 1; 1972, c. 16, s. 2; 1976, c. 24, s. 3 (1, 2); 1977, c. 11, s. 7 (1); 1979, c. 17, s. 7.

Minister  
may  
prescribe  
forms

(2) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain. 1977, c. 11, s. 7 (2).

Regulations

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1976, c. 24, s. 3 (3).

## CHAPTER 503

### Toll Bridges Act

#### 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Transportation and Communications or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (b) "toll bridge" means a bridge designated under section 2;
- (c) "vehicle" means a motor vehicle, motorcycle, trailer, traction-engine, farm tractor or road-building machine and includes any other vehicle drawn, propelled or driven by other than muscular power. R.S.O. 1970, c. 464, s. 1; 1972, c. 1, s. 100 (2).

2. The Lieutenant Governor in Council may designate the Skyway over the Burlington Canal, the Fort Frances Causeway, and the bridge over or tunnel under the Welland Canal or any international bridge or tunnel as a toll bridge. R.S.O. 1970, c. 464, s. 2.

Designation  
as toll  
bridge

3.—(1) No person shall take or operate a vehicle, other than a vehicle exempted from this Act, upon a toll bridge without paying the toll prescribed for such vehicle.

User of  
toll bridge  
to pay  
tolls

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$5 and not more than \$10, and for a second or subsequent offence to a fine of not less than \$10 and not more than \$50. R.S.O. 1970, c. 464, s. 3.

Offence

4. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing classes of vehicles for the purposes of this Act;
- (b) exempting any class of vehicles from this Act;



- (c) prescribing the toll to be paid for any vehicle or class of vehicle taken or operated upon any toll bridge or different tolls for different toll bridges;
- (d) providing for the collection of tolls and the disposition thereof;
- (e) establishing authorities to manage toll bridges either alone or in conjunction with any Canadian or foreign authority;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 464, s. 4.

Agreements  
re inter-  
national  
bridges  
and  
tunnels

**5.** The Minister may on behalf of Her Majesty in right of Ontario enter into agreements with any Canadian or foreign authority for the joint financing, construction or operation of any international bridge or tunnel and for any matter incidental thereto. R.S.O. 1970, c. 464, s. 5.

## CHAPTER 504

## Topsoil Preservation Act

## 1. In this Act,

Interpre-  
tation

- (a) “lot” means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision;
- (b) “topsoil” means that horizon in a soil profile, known as the “A” horizon, containing organic material. 1977, c. 49, s. 1.

2.—(1) Subject to subsections (2) and (3), by-laws may be passed by the councils of municipalities,

By-laws  
regulating  
or  
prohibiting  
removal of  
topsoil

- (a) regulating or prohibiting the removal of topsoil in the municipality or in any area or areas thereof defined in the by-law;
- (b) providing for the issuing and renewing of permits for the removal of topsoil;
- (c) providing for the refusal to issue, refusal to renew and revocation of permits on such grounds as are prescribed in the by-law;
- (d) prohibiting any person from removing topsoil within the area or areas to which the by-law applies without a permit therefor;
- (e) requiring the rehabilitation of lands from which the topsoil has been removed;
- (f) prescribing standards of rehabilitation to be met for the purposes of clause (e);
- (g) prescribing rehabilitation procedures to be followed for the purposes of clause (e); and
- (h) exempting any land or any person or class of persons from any or all of the provisions of a by-law passed pursuant to this subsection.

Application

(2) A by-law passed under subsection (1) does not apply to,

(a) the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;

R.S.O. 1980,  
cc. 126, 500

(b) the removal of topsoil as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;

R.S.O. 1980,  
c. 378

(c) the removal of topsoil as an incidental part of operations authorized under the *Pits and Quarries Control Act*;

R.S.O. 1980,  
c. 268

(d) the removal of topsoil as an incidental part of operations authorized under the *Mining Act*;

(e) the removal of topsoil by a Crown agency or Ontario Hydro;

(f) in the case of a by-law passed by a local municipality, the removal of topsoil by a county or regional municipality;

R.S.O. 1980,  
c. 332

(g) the removal of topsoil as an incidental part of any construction for which leave to construct has been granted pursuant to the *Ontario Energy Board Act*;

(h) the removal of topsoil as an incidental part of the construction of any form of underground services where the topsoil is removed and held for subsequent replacement;

(i) the removal of topsoil where the quantity of topsoil removed in any one lot does not, in any consecutive three-month period, exceed five cubic metres; and

(j) the removal of topsoil as an incidental part of the construction of a public highway.

Item

(3) A by-law passed under subsection (1) does not apply to the extent that,

R.S.O. 1980,  
c. 379

(a) it is inconsistent with the terms of any approval or agreement under the *Planning Act*; or

(b) it would prevent the construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to,

- (i) a by-law passed by a municipality pursuant to section 39 of the *Planning Act*, R.S.O. 1980,  
c. 379
  - (ii) an order made by the Minister of Housing pursuant to section 35 of the *Planning Act*,
  - (iii) a land use regulation made by the Minister of Housing pursuant to section 4 of the *Parkway Belt Planning and Development Act*, or R.S.O. 1980,  
c. 368
  - (iv) a development permit issued by the Minister of Housing pursuant to the *Niagara Escarpment Planning and Development Act* or an exemption granted pursuant to clause 23 (c) of the said Act. R.S.O. 1980,  
c. 316
- Act. 1977, c. 49, s. 2; O. Reg. 407/79.

**3.** Part XIX of the *Municipal Act* applies with necessary Enforcement  
modifications to by-laws passed under this Act. 1977, c. 49, s. 3. R.S.O. 1980,  
c. 302





## CHAPTER 505

Toronto Area Transit Operating  
Authority Act

## 1. In this Act,

Interpre-  
tation

(a) “area of jurisdiction of the Authority” means the area composed of,

(i) the Regional Area as defined in the *Regional Municipality of Peel Act*, R.S.O. 1980, c. 440

(ii) the Regional Area as defined in the *Regional Municipality of York Act*, R.S.O. 1980, c. 443

(iii) the Metropolitan Area as defined in the *Municipality of Metropolitan Toronto Act*, R.S.O. 1980, c. 314

(iv) the Regional Area as defined in the *Regional Municipality of Durham Act*, R.S.O. 1980, c. 434

(v) the Regional Area as defined in the *Regional Municipality of Halton Act*, and R.S.O. 1980, c. 436

(vi) the Regional Area as defined in the *Regional Municipality of Hamilton-Wentworth Act*, R.S.O. 1980, c. 437

(b) “Authority” means the Toronto Area Transit Operating Authority;

(c) “inter-regional transit system” means a transit system that is principally operated,

(i) in more than one regional area, and

(ii) within the area of jurisdiction of the Authority;

(d) “land” includes buildings or improvements on land, land covered with water, and any estate, interest, right or easement in, to, over or affecting any of them;

(e) “Minister” means the Minister of Transportation and Communications;

(f) “Ministry” means the Ministry of Transportation and Communications;

(g) “regional area” means,

(i) a regional area as defined in,

R.S.O. 1980,  
c. 434

A. the *Regional Municipality of Durham Act*,

R.S.O. 1980,  
c. 436

B. the *Regional Municipality of Halton Act*,

R.S.O. 1980,  
c. 437

C. the *Regional Municipality of Hamilton-Wentworth Act*,

R.S.O. 1980,  
c. 440

D. the *Regional Municipality of Peel Act*,

R.S.O. 1980,  
c. 443

E. the *Regional Municipality of York Act*,  
or

(ii) the Metropolitan Area as defined in the  
*Municipality of Metropolitan Toronto Act*;

R.S.O. 1980,  
c. 314

(h) “regional transit system” means a transit system that is principally operated within a regional area;

(i) “regulations” means the regulations made under this Act;

(j) “transit system” means a system for the transportation of passengers and parcel express. 1974, c. 69, s. 1; 1977, c. 39, s. 1.

Toronto  
Area  
Transit  
Operating  
Authority

**2.**—(1) The Toronto Area Transit Operating Authority is continued as a corporation without share capital. 1974, c. 69, s. 2 (1), *revised*.

Membership

(2) The Authority shall be composed of seven members as follows,

(a) one member appointed by the Lieutenant Governor in Council, who shall be the chairman of the Authority;

(b) the chairmen of the regional councils of the regional municipalities of Durham, Halton, Hamilton-Wentworth, Peel and York; and

(c) the chairman of the Metropolitan Council of The Municipality of Metropolitan Toronto. 1974, c. 69, s. 2 (2); 1977, c. 39, s. 2 (1, 2).

(3) The member appointed by the Lieutenant Governor in Council shall hold office for a term of five years and until his successor is appointed. 1974, c. 69, s. 2 (3). Term of office of chairman

(4) Four members of the Authority constitute a quorum. 1974, c. 69, s. 2 (4); 1977, c. 39, s. 2 (3). Quorum

(5) In the event of a vacancy caused by the death, resignation or incapacity of the member of the Authority appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may appoint a person to hold office for the remainder of the term of such member. Vacancy

(6) When the chairman is absent from any meeting of the Authority, the members present at the meeting shall appoint from among them an acting chairman who, for the purposes of the meeting, has all the powers and shall perform all the duties of the chairman. Absence of chairman

(7) The Authority may pay those of its members who are not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be from time to time fixed by the Lieutenant Governor in Council. Remuneration

(8) The fiscal year of the Authority begins on the 1st day of April and ends on the 31st day of March in the following year. Fiscal year

(9) The Authority is an agency of the Crown. 1974, c. 69, s. 2 (5-9). Agency

**3.**—(1) the Authority may make by-laws regulating its proceedings. By-laws

(2) Subject to the approval of the Minister, the Authority may make by-laws for the conduct and management of the affairs of the Authority. 1974, c. 69, s. 4. Idem

**4.**—(1) The Authority shall employ a Managing Director and may employ a Secretary, a Treasurer and such other persons and may retain such technical and professional consultants as are considered necessary to carry out the objects of the Authority at such remuneration and upon such terms as the Authority approves. Staff

(2) The *Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Authority. Idem R.S.O. 1980, c. 419

(3) Where the Authority employs a person heretofore employed as a civil servant within the meaning of the *Public* Idem R.S.O. 1980, c. 418



*Service Act*, any attendance credits or vacation credits standing to the credit of such person as a civil servant shall continue to the credit of such person as an employee of the Authority. 1974, c. 69, s. 5.

Objects

**5.** The objects of the Authority are,

- (a) to design, establish and operate or cause to be operated an efficient and economical surface and subsurface, or either of them, inter-regional transit system to serve the needs of persons requiring transportation as passengers across the boundaries of regional areas and within the area of jurisdiction of the Authority;
- (b) to provide a parcel express service within the area of jurisdiction of the Authority only in conjunction with and ancillary to its passenger service;
- (c) to co-ordinate the operations of surface and subsurface inter-regional transit systems and surface and subsurface regional transit systems and to operate, within the area of jurisdiction of the Authority on routes where the Authority operates an inter-regional transit service, transit services within a regional area at the request of and under an agreement with the council of the regional area or the council of an area municipality within the regional area;
- (d) to provide information, advice, design assistance and co-ordinating services to surface and subsurface inter-regional transit systems and surface and subsurface regional transit systems; and
- (e) to perform such other duties and exercise such other powers as are imposed or conferred on the Authority by or under any Act within the area of jurisdiction of the Authority,

in order that the public interest may be served. 1974, c. 69, s. 6; 1977, c. 39, s. 4.

Powers

**6.**—(1) For the purpose of carrying out its objects, the Authority shall study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of inter-regional transit systems;

- (b) the fare structure and service schedules of inter-regional transit systems;
- (c) the use by municipalities of transit funds allocated by the Ministry;
- (d) applications for public vehicle operating licences under the *Public Vehicles Act* for the transportation across the boundaries of regional areas of passengers or passengers and express freight on a highway; and R.S.O. 1980,  
c. 425
- (e) the integration or co-ordination or both, of the facilities, equipment, personnel training, service schedules and fare structures of inter-regional transit systems and regional transit systems,

within the area of jurisdiction of the Authority. 1974, c. 69, s. 7 (1).

(2) In carrying out its objects the Authority may, Idem

- (a) design and construct and operate or cause to be operated an inter-regional transit system;
- (b) for the establishment and operation, or either of them, of an inter-regional transit system,
  - (i) acquire by purchase, lease or otherwise any transit vehicle, equipment or thing,
  - (ii) acquire by purchase, lease, expropriation or otherwise any land;
- (c) sell, lease or otherwise dispose of any transit vehicle, equipment, thing or land no longer required by the Authority for the purpose of this Act;
- (d) enter into agreements with the Crown, any individual, corporation, partnership or association,
  - (i) for the leasing of transit vehicles owned by the Authority with drivers, or
  - (ii) for any purpose related to the objects or powers of the Authority; and
- (e) subject to the approval of the Lieutenant Governor in Council, borrow moneys required for the carrying out of its objects. 1974, c. 69, s. 7 (2); 1977, c. 39, s. 5.

GO  
Transit

(3) The Authority shall administer all of the commuter services operated immediately before the 28th day of June, 1974 by the agency of the Province of Ontario known as Government of Ontario Transit.

Studies

(4) The Authority may, upon the request of the council of a regional municipality within the area of jurisdiction of the Authority, study or cause to be studied and investigate or cause to be investigated,

(a) the design and operation of any regional transit system; and

(b) the fare structure and service schedule of any regional transit system,

within the regional area administered by the council. 1974, c. 69, s. 7 (3, 4).

Moneys

7. The moneys required for the purposes of the Authority may be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 69, s. 8.

Respon-  
sibility of  
Minister

8. The Minister is responsible for the administration of this Act. 1974, c. 69, s. 9.

Regulations

9.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Authority may make regulations,

(a) prescribing fares that shall be charged and collected by any inter-regional transit system operating in the area of jurisdiction of the Authority;

(b) in respect of a transit system operated by or on behalf of the Authority,

(i) prohibiting or regulating the use of any land of the Authority and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land,

(ii) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any land of the Authority and providing for the revocation of any such permit, licence or right,

(iii) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any land of the Authority,

- (iv) prescribing fares that shall be charged and collected for any service,
- (v) governing the terms and conditions upon which tickets may be sold,
- (vi) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold.

(2) Every person who contravenes any provision of a regulation made under clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not more than \$100.

(3) The owner of a motor vehicle shall incur the fines imposed for any contravention of a regulation made under subsection (1) prohibiting or regulating the parking of motor vehicles unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention.

(4) The Minister may appoint in writing one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under subsection (1), and any person so appointed is a constable for such purpose and for the purposes of section 19 of the *Highway Traffic Act*.

Offence

Motor vehicle owner and driver liable to penalties

Appointment of officers to carry out regulations

R.S.O. 1980, c. 198

(5) A person appointed under subsection (4) shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection (4) and shall produce such certificate upon request. 1974, c. 69, s. 10.

Certificate of appointment

10. The Lieutenant Governor in Council may make regulations exempting any method of transportation or any type of vehicle from the application of this Act. 1974, c. 69, s. 11.

Regulations by Lieutenant Governor in Council

11. Where the Authority operates a transit service within a regional area under agreement with the council of the regional area or with the council of an area municipality within the regional area, the tariff of fares of the service shall be established by the agreement. 1977, c. 39, s. 6.

Fares established by agreement

12.—(1) Every owner of a regional transit system shall file with the Authority the service schedules and tariff of fares of the system and any additional material and information related to the schedules and tariff that the Authority may require from the owner.

Filing of tariffs and schedules



Changes in  
tariffs or  
schedules

(2) An owner or operator of a regional transit system shall not make any change in, addition to or deletion from the service provided or the fares charged to the public on account of the system, other than a change in, addition to or deletion of service of a temporary nature required to meet an emergency, until the owner or operator has filed with the Authority a statement of the proposed change, addition or deletion. 1974, c. 69, s. 12.

Auditor

R.S.O. 1980,  
c. 405

**13.**—(1) Subject to the approval of the Minister, the Authority shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the books, records and accounts of the Authority and prepare an annual auditor's statement for the fiscal year last past.

Provincial  
Auditor

(2) The auditor's report and the working papers used in the preparation of the auditor's statement shall be made available to the Provincial Auditor. 1974, c. 69, s. 13.

Annual  
report

**14.**—(1) The Authority shall make a report annually to the Minister in such form and containing such financial and other information as the Minister may require.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1974, c. 69, s. 14.

## CHAPTER 506

### Toronto Stock Exchange Act

**1.** In this Act,

**Interpre-  
tation**

- (a) "Corporation" means The Toronto Stock Exchange;
- (b) "exchange" means the stock exchange operated by the Corporation;
- (c) "public director" means a member of the board of directors of the Corporation elected under subsection 7 (2). R.S.O. 1970, c. 465, s. 1.

**2.** The Toronto Stock Exchange, incorporated by *An Act to incorporate the Toronto Stock Exchange*, being chapter 65 of the Statutes of Ontario, 1878, is continued as a corporation without share capital under the name of "The Toronto Stock Exchange". R.S.O. 1970, c. 465, s. 2.

**Corporation  
continued**

**3.** The head office of the Corporation shall be situate in The Municipality of Metropolitan Toronto. R.S.O. 1970, c. 465, s. 3.

**Head office**

**4.**—(1) The object of the Corporation is to operate a stock exchange in Ontario for trading by the members of the Corporation and other persons authorized under subsection (2).

**Object**

(2) The board of directors may authorize persons other than members to trade on the exchange subject to such conditions as are imposed by the board of directors.

**Trading  
by non-  
members**

(3) The Corporation shall operate the exchange in a manner that does not contravene the requirements of the *Securities Act* and the regulations, directions, orders, determinations or rulings made thereunder, and the Corporation may impose any additional or higher requirement within its jurisdiction. R.S.O. 1970, c. 465, s. 4.

**Compliance  
with  
R.S.O. 1980,  
c. 466**

**5.** The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its object. R.S.O. 1970, c. 465, s. 5.

**Non-profit**

Board of  
directors

**6.**—(1) The affairs of the Corporation shall be managed by a board of directors, who may be referred to as governors, consisting of,

(a) the President of the Corporation;

(b) two public directors; and

(c) ten persons elected under subsection 7 (3).

Vacancies

(2) Notwithstanding any vacancy in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1970, c. 465, s. 6.

President

**7.**—(1) The President shall be appointed by the board of directors and may be removed from office by the board of directors only by a vote of two-thirds of the directors then in office.

Public  
directors

(2) The public directors shall be elected by the board of directors annually by the board of directors at the first meeting of the board following the annual meeting of the Corporation, to hold office until the next annual meeting of the Corporation and any vacancy occurring among the public directors may be filled by the election of another person for the remainder of the term by the directors then in office, but no person is eligible to be elected as a public director if he is a member of the Corporation and unless his nomination for such election has been approved by the Lieutenant Governor in Council on the recommendation of the President.

Elected  
directors

(3) The directors other than the President and public directors shall be elected by the members yearly in such manner as the by-laws of the Corporation provide. R.S.O. 1970, c. 465, s. 7.

Appointment  
of officers

**8.**—(1) All officers of the Corporation other than the chairman of the board of directors, the vice-chairman of the board of directors, the President, the secretary and the treasurer shall be appointed by the board of directors with the approval of the President.

Certain  
officers  
not to be  
members

(2) No officers of the Corporation other than the chairman of the board of directors, the vice-chairman of the board of directors, the secretary and the treasurer shall be members of the Corporation.

Certain  
officers  
not to be  
directors

(3) No officers of the Corporation other than the President, the chairman of the board of directors, the vice-chairman of

the board of directors, the secretary and the treasurer shall be directors of the Corporation. R.S.O. 1970, c. 465, s. 8.

**9.** The President shall be the chief executive officer and chief administrative officer of the Corporation. R.S.O. 1970, c. 465, s. 9. Duties of President

**10.** For the purposes of the object of the Corporation, the board of directors has the power to govern and regulate, Powers of board of directors

- (a) the exchange;
- (b) the partnership and corporate arrangements of the members and other persons authorized to trade on the exchange, including requirements as to financial condition;
- (c) the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business,

and, in the exercise of such powers and in addition to their power to pass by-laws under Part III of the *Corporations Act*, the board of directors may pass such by-laws and make such rules and regulations and issue such orders and directions pursuant to such by-laws as it considers necessary for the purpose, including the imposition of penalties and forfeitures for the breach of any such by-law, rule, regulation, direction or order. R.S.O. 1970, c. 465, s. 10. R.S.O. 1980, c. 95

**11.** The *Corporations Act*, except sections 131 and 312, apply to the Corporation, except, Application of R.S.O. 1980, c. 95

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) that the by-laws of the Corporation may,
  - (i) fix the class or classes of persons who may be appointed by a proxy to attend and act at meetings of members as nominees of members provided that one such class shall be members,
  - (ii) provide for and regulate the admission of members, including the requiring of approval



by the directors or members, of both, at meetings or individually, and the manner in which such approval is to be given, and

- (iii) fix the quorum for meetings of the board at five or any larger number of directors as specified in the by-law. R.S.O. 1970, c. 465, s. 11.

Powers of  
Ontario  
Securities  
Commission  
R.S.O. 1980,  
c. 466 .

**12.** Nothing in this Act shall be construed to derogate from the powers of the Ontario Securities Commission under the *Securities Act* or any other Act. R.S.O. 1970, c. 465, s. 12.

## CHAPTER 507

## Tourism Act

## 1. In this Act,

Interpre-  
tation

- (a) “information centre” means a place that is held out to the public as being available for or engaged in furnishing travel information to the public, whether for hire or reward or otherwise;
- (b) “licence issuer” means the tourist industry officer of the Ministry or other official of the Ministry designated as such by the Minister;
- (c) “Minister” means the Minister of Industry and Tourism;
- (d) “Ministry” means the Ministry of Industry and Tourism;
- (e) “operate” means have the management and control;
- (f) “operator” means the resident manager or other person in charge of a tourist establishment;
- (g) “regulations” means the regulations made under this Act;
- (h) “sleeping accommodation” includes a campsite where any facility or service is provided for the supply of water or electricity or for the disposal of garbage or sewage;
- (i) “tourist establishment” means any premises operated to provide sleeping accommodation for the travelling public or sleeping accommodation for the use of the public engaging in recreational activities, and includes the services and facilities in connection with which sleeping accommodation is provided, but does not include,

- (i) a camp operated by a charitable corporation approved under the *Charitable Institutions Act*, or

R.S.O. 1980,  
c. 64

R.S.O. 1980,  
c. 409

(ii) a summer camp within the meaning of the regulations made under the *Public Health Act*, or

(iii) a club owned by its members and operated without profit or gain. R.S.O. 1970, c. 122, s. 1; 1971, c. 50, s. 31 (1); 1972, c. 1, s. 79 (2, 3).

Investiga-  
tions

**2.** The Minister may by order appoint one or more persons to investigate, inquire into and report to him upon any matter connected with or affecting the tourist industry, including accommodation, facilities, or services offered to tourists or the advertising or publicizing thereof, or of the resources, attractions or advantages of Ontario, and, for the purposes of the investigation and inquiry, any person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. 1971, c. 50, s. 31 (2).

R.S.O. 1980,  
c. 411

Construction  
permit  
required

**3.—(1)** No person shall construct a tourist establishment or make an addition to or a structural alteration in a tourist establishment except in accordance with a permit therefor in the prescribed form issued under this Act.

Issue of  
permit

(2) Subject to subsection (3), a person is entitled to be issued a permit for the construction of, or the making of additions to or structural alterations in, a tourist establishment upon filing with the proper licence issuer,

(a) an application therefor in the prescribed form; and

(b) plans and specifications of the proposed tourist establishment showing that the establishment as constructed, added to or altered will comply with the requirements of this Act and the regulations and of any other law, regulation or by-law applicable to the establishment.

Refusal  
of permit

(3) A licence issuer may, after hearing the applicant, refuse to issue a permit under this section if the plans and specifications for the tourist establishment or for additions to or alterations in a tourist establishment do not comply with clause (2) (b).

Expiry of  
permit

(4) A permit under this section expires one year after the date it was issued.

(5) No holder of a permit shall construct a tourist establishment or make an addition to or structural alteration in a tourist establishment except in accordance with the plans and specifications in relation to which the permit was granted. 1971, c. 50, s. 31 (3), *part*.

4.—(1) No person shall operate a tourist establishment except in accordance with a licence in the prescribed form issued therefor under this Act. Operator's licence required

(2) Subject to section 5, a person is entitled to be issued a licence to operate a tourist establishment upon application therefor in the prescribed form to the proper licence issuer, accompanied by such information as may be prescribed by the regulations, and payment of the prescribed fee. Issue of licence

(3) A licence issued under this section, Term of licence

(a) becomes effective on the first day of April of the year in which it is issued or the date on which it is issued, whichever is the later; and

(b) expires with the 31st day of March next following unless sooner suspended or cancelled. 1971, c. 50, s. 31 (3), *part*.

5.—(1) A licence issuer may, after a hearing, refuse to issue a licence to operate a tourist establishment if, Refusal of licence

(a) the tourist establishment does not comply with the requirements of this Act or the regulations or any other law, regulation or by-law applicable to the establishment;

(b) a licence to operate a tourist establishment was previously issued to the applicant and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or

(c) the owner, lessee or operator of the establishment has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law and with honesty and integrity.

(2) Within forty-eight hours after a refusal to issue a licence, the licence issuer shall transmit, Transmission of report, etc., to Minister and applicant

(a) to the Minister, the application and a report setting forth the reasons for the refusal; and



- (b) to the applicant by registered mail, a copy of the report and a notification that a refund has been authorized and will be issued from the office of the Treasurer of Ontario in due course. 1971, c. 50, s. 31 (3), *part.*

Renewal of  
licence

6.—(1) Subject to section 7, the holder of a licence to operate a tourist establishment is entitled to a renewal thereof upon application therefor in the prescribed form to the proper licence issuer and payment of the prescribed fee.

Application

(2) Application for renewal of a licence to operate a tourist establishment shall be made,

- (a) where the establishment is operated throughout the year, before expiry of the current licence; or
- (b) where the establishment is operated for only part of the year, before the 15th day of May in each year.

Continuation  
of registra-  
tion pending  
renewal

(3) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where he is served with notice of a hearing by the licence issuer, until the decision of the licence issuer has become final. 1971, c. 50, s. 31 (3), *part.*

Suspension,  
etc., of  
licence

7.—(1) A licence issuer may, after a hearing, refuse to renew or suspend or cancel a licence to operate a tourist establishment if,

- (a) the tourist establishment does not comply with the requirements of this Act or the regulations or of any other law, regulation or by-law applicable to the establishment; or
- (b) the owner, lessee or operator of the establishment,
- (i) has contravened any provision of this Act or the regulations, or
- (ii) has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law or with honesty and integrity,

notwithstanding that the grounds for refusal, suspension or cancellation existed at the time the licence was issued.

(2) A notice of a hearing under subsection (1) relating to a refusal to renew or the suspension or cancellation of a licence shall be served personally or by registered mail on the licensee and shall afford to him a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence. Notice of hearing

(3) A licence issuer shall afford to an applicant or licensee who will be affected by a decision pursuant to a hearing by the licence issuer, or to his representative, an opportunity to examine, before the hearing, any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 31 (3), *part*. Examination of documentary evidence

8. Where a licensed tourist establishment is sold or legal ownership thereof passes, the purchaser or other person to whom the legal ownership has passed is entitled to obtain a transfer of the licence from the proper licence issuer upon application therefor in the prescribed form and payment of the prescribed fee if he would have been entitled to be issued the licence if he were making an initial application therefor and surrenders the existing licence, and the provisions of section 5 apply to his application. 1971, c. 50, s. 31 (3), *part*. Transfer of licence

9.—(1) Where a licence issuer has,

Appeal to judge

- (a) refused to issue or renew a licence;
- (b) suspended or cancelled a licence; or
- (c) refused to transfer a licence,

the owner, lessee or operator of the tourist establishment to which the licence relates may, within fifteen days after receipt of the decision of the licence issuer, appeal to a judge of the county or district court of the county or district in which the tourist establishment is situate by sending a notice of appeal specifying the grounds of his appeal by registered mail to the Deputy Minister of Industry and Tourism and filing a copy thereof in the office of the clerk of the court. 1971, c. 50, s. 31 (3), *part*; 1972, c. 1, s. 79 (5).

(2) The Minister represented by such person as he may nominate and the person filing the notice of appeal are parties to an appeal under this section. Parties

Hearing  
*de novo*

(3) Where an appeal is brought under this section, the judge shall appoint a time and a place for and shall hear the appeal by way of a hearing *de novo* and may by order direct the licence issuer to take such action as the judge considers the licence issuer ought to take in accordance with this Act and the regulations and as the judge deems proper.

Burden of  
establishing  
grounds for  
refusal, etc.

(4) Where the appeal is from a decision of a licence issuer refusing to renew or transfer or suspending or cancelling a licence, the Minister or his representative shall, on the hearing of the appeal, be deemed to be the complainant, and the burden of establishing the grounds for the refusal to renew or transfer or the suspension or cancellation shall be upon him, and the appellant shall be deemed to be the respondent.

Extension of  
time for  
hearing

(5) A judge to whom an appeal may be taken under this section may extend the time for making the appeal, either before or after expiration of the time fixed therefor, where he is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Recording  
of evidence

(6) The oral evidence taken before the judge on an appeal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings  
of fact

R.S.O. 1980,  
c. 484

(7) The findings of fact of a judge on an appeal shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 31 (3), *part*.

Appeal from  
order of  
judge

**10.—**(1) Any party to proceedings before a judge under section 9 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record to  
be filed  
in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Divisional Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister  
entitled to  
be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

(4) The Divisional Court may, on the appeal, exercise all <sup>Decision</sup> the powers of the judge appealed from or the court may refer the matter back to the judge for a rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 31 (3), *part*.

**11.**—(1) The holder of a licence to operate a tourist establishment shall, <sup>Filing and posting up of rates</sup>

(a) file with the Minister the rates for sleeping accommodation in the tourist establishment and alterations therein; and

(b) post up the rates filed under clause (a) at the times and in the manner prescribed by the regulations.

(2) No person shall require or accept a payment for sleeping <sup>Charging of rates</sup> accommodation in excess of the rates filed with the Minister under subsection (1) and the regulations. R.S.O. 1970, c. 122, s. 7.

**12.** No person shall publish advertising matter or display <sup>Advertis-</sup> any sign respecting tourist facilities, accommodation, services or attractions that does not comply with the regulations. R.S.O. 1970, c. 122, s. 8.

**13.**—(1) The Minister may designate employees of the Minis- <sup>Inspectors</sup> try as inspectors. R.S.O. 1970, c. 122, s. 9 (1); 1972, c. 1, s. 1.

(2) An inspector may inspect the premises, books and <sup>Duties</sup> records of any tourist establishment for the purpose of enforcing this Act and the regulations, and, for the purpose of an inspection, may,

(a) enter the premises of the tourist establishment or any part thereof and be accompanied on his inspection by a legally qualified medical practitioner, a constable or police officer, a municipal building or public health inspector, or an inspector appointed under the *Hotel Fire Safety Act*, the *Liquor Licence Act* <sup>R.S.O. 1980, cc. 207, 244, 384</sup> or the *Power Corporation Act*; and

(b) require the production of the books and records of the tourist establishment, and examine and copy such books and records or any part thereof. R.S.O. 1970, c. 122, s. 9 (2); 1973, c. 57, s. 19.

(3) Nothing in this section authorizes an inspector to enter <sup>Entry of rented and occupied premises with consent</sup> any premises or dwelling unit forming part of a tourist establishment that is rented and actually occupied by a



R.S.O. 1980,  
c. 400

tourist or member of the public without the consent of the occupant, except under the authority of a warrant issued under section 142 of the *Provincial Offences Act*, 1971, c. 50, s. 31 (4).

Provisional  
suspension  
of licence

**14.**—(1) Notwithstanding section 7, an inspector, by notice delivered to the operator of a tourist establishment, may provisionally suspend the licence to operate the establishment if he believes on reasonable grounds that the continued operation of the establishment will be dangerous to the safety or health of any person and, upon delivery of such notice to the operator, the suspension takes effect.

Hearing

(2) Where an inspector has provisionally suspended a licence to operate a tourist establishment under subsection (1), he shall forthwith notify the licence issuer by whom the licence was issued and the licence issuer shall, as soon as is practicable, hold a hearing and determine whether the licence should be suspended or cancelled under this Act, and the provisions of sections 7, 9 and 10 apply to such proceedings and to the decision of the licence issuer. 1971, c. 50, s. 31 (5).

Penalty  
for breach  
of Act

**15.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Penalty for  
breach of  
regulations

(2) Every person who contravenes any provision of the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500.

Operating  
tourist  
establish-  
ment  
without a  
licence

(3) In addition to the penalty provided in subsection (1), a person who is convicted of a contravention of section 3 is liable to a fine of \$10 for each day the offence continues, not exceeding ninety days. R.S.O. 1970, c. 122, s. 12.

Regulations

**16.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the issuance of permits and licences and prescribing the terms and conditions of permits or licences or any class thereof;
- (b) requiring the holders of permits and licences to make such returns and reports as are prescribed;
- (c) requiring the payment of fees in respect of the issuance of permits and licences and renewals thereof, and fixing the amounts of the fees;

- (d) providing for the apportionment and distribution of moneys appropriated by the Legislature for the maintenance, development and promotion of the tourist industry, and providing for the conditions governing the payment thereof;
- (e) governing the content and the publication or display of advertising matter or signs respecting tourist facilities, accommodation, services or attractions;
- (f) governing the plans and specifications of tourist establishments, or any class thereof, and the facilities and equipment that shall be provided;
- (g) requiring information centres, or any class thereof, to be licensed, and providing for the inspection of licensed information centres and their books and records;
- (h) governing the operation of information centres and tourist establishments, or any class thereof;
- (i) prescribing the times when and the manner in which rates for sleeping accommodation in tourist establishments and alterations therein shall be filed with the Minister and posted up under section 11;
- (j) prescribing forms and providing for their use;
- (k) exempting any class of tourist establishment from this Act or the regulations or from any provision thereof. R.S.O. 1970, c. 122, s. 13 (1); 1971, c. 50, s. 31 (7, 8); 1972, c. 1, s. 79 (7, 8).

(2) Any regulation made under subsection (1) may be general or <sup>Application</sup> particular in its application. R.S.O. 1970, c. 122, s. 13 (2).



## CHAPTER 508

## Training Schools Act

## 1. In this Act,

Interpre-  
tation

- (a) “Area Administrator” means one or more employees of the Ministry appointed by the Minister as an Area Administrator for the purposes of this Act;
- (b) “foster home” means a foster home designated under section 18;
- (c) “home” means a parental home, foster home or a home where residential services and other services are provided under an agreement with the Minister;
- (d) “inspector” means an officer of the Ministry designated as such by the Minister;
- (e) “judge” means a provincial judge;
- (f) “Minister” means the Minister of Community and Social Services;
- (g) “Ministry” means the Ministry of Community and Social Services;
- (h) “Ontario training school” means a training school established under section 3;
- (i) “parent” means a person who is under a legal duty to provide for a child, and includes a guardian or a person who has demonstrated a settled intention to treat the child as a child of the person’s family but does not include a person who exercises the rights and duties of a legal guardian under section 16;
- (j) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated as places of safety under the *Child Welfare Act* and includes an observation and detention home established under the *Provincial Courts Act* but does not include a training school or any place in which adults are or may be imprisoned;

R.S.O. 1980,  
cc. 66, 398



- (k) "private training school" means a training school established under section 4;
- (l) "regulations" means the regulations made under this Act;
- (m) "society" means a religious society, organization or order or a charitable or philanthropic organization;
- (n) "superintendent" means the superintendent or other person in charge of a training school;
- (o) "training school" means an Ontario training school or a private training school. R.S.O. 1970, c. 467, s. 1; 1972, c. 1, s. 1; 1977, c. 22, s. 1 (3); 1978, c. 66, s. 1.

Purpose of  
training  
school

**2.** The purpose of a training school is to provide the children therein with training and treatment and with moral, physical, academic and vocational education. R.S.O. 1970, c. 467, s. 2.

Ontario  
training  
schools

**3.—(1)** The Lieutenant Governor in Council may provide for the establishment of Ontario training schools. R.S.O. 1970, c. 467, s. 3 (1).

Property

(2) All real property and chattels acquired by purchase, gift or otherwise and for the use of Ontario training schools are vested in the Crown, represented by the Minister of Government Services. R.S.O. 1970, c. 467, s. 3 (2); 1973, c. 2, s. 2.

Cost

(3) The cost of establishing and maintaining Ontario training schools shall be paid out of such moneys as are appropriated therefor by the Legislature, and all revenues from whatsoever source derived by or pertaining to Ontario training schools shall form part of the Consolidated Revenue Fund. R.S.O. 1970, c. 467, s. 3 (3).

Private  
training  
schools

**4.—(1)** The Lieutenant Governor in Council may authorize any society to establish and maintain a private training school, and, subject to the other provisions of this Act, a society so authorized is responsible for the maintenance in proper condition of the training school, its premises and equipment, and the Lieutenant Governor in Council may cancel any such authority for any reason that in his opinion warrants such cancellation.

Approval  
of plans  
and sales

(2) A society shall not erect, acquire, establish, change the site of, add to or structurally alter a private training

school until the site and plans thereof have been approved by the Minister, and a society shall not sell or dispose of the premises of a private training school, or any part thereof, until the sale or disposal has been approved by the Minister.

(3) Any religious corporation may set apart and grant or lease for a nominal consideration or otherwise for the purposes of a private training school any land that it has a general power to dispose of for religious, charitable or educational purposes without being deemed guilty of a breach of trust. R.S.O. 1970, c. 467, s. 4.

5. A training school shall bear such name or other designation as is approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 467, s. 5.

6.—(1) There shall be a board to be known as The Training Schools Advisory Board composed of such number of members as is prescribed by the regulations and the members of the Board shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Board. 1978, c. 66, s. 2 (1).

(2) The Minister may appoint a secretary for the Advisory Board.

(3) The Advisory Board shall meet at the call of the Minister or the chairman.

(4) The Advisory Board shall act in an advisory capacity to the Minister and, when so requested by him, shall consult with him as to the administration of this Act and of training schools.

(5) The Advisory Board shall, by visiting and otherwise investigating training schools, ascertain the condition thereof and the welfare of the children therein, and shall report to the Minister and make such recommendations as it considers advisable. R.S.O. 1970, c. 467, s. 6 (2-5).

(6) The Lieutenant Governor in Council shall fix a *per diem* allowance to be payable to each member of the Advisory Board and each member is entitled to be reimbursed for the member's reasonable and necessary travelling and living expenses for attendance at meetings and in the transaction of the business of the Advisory Board. 1978, c. 66, s. 2 (2).

Inspection  
of training  
schools

**7.—(1)** Every training school shall be inspected at least twice a year by an inspector, who shall be given free access to all parts of its premises and to all its books and records and who shall make such inquiries as are necessary to determine the training and welfare of the staff and wards therein, and, in the case of a private training school, the inspector also has authority to inspect the books and records of the society maintaining the training school in so far as they relate to the training school. R.S.O. 1970, c. 467, s. 7 (1).

Minister  
may request  
inspection  
of training  
school

**(2)** The Minister may request any inspector or other officer of the Ministry or employee of any other ministry to conduct an inspection of any training school for any special purpose, and, for the purposes of the inspection, such inspector, officer or employee has the same powers as an inspector under subsection (1). R.S.O. 1970, c. 467, s. 7 (2); 1972, c. 1, ss. 1, 2.

Reports on  
inspections

**(3)** The inspector and any other person who conducts an inspection under this section shall make such reports as the Minister requires. R.S.O. 1970, c. 467, s. 7 (3).

Crown  
ward

## **8. Where,**

- (a)** a child has contravened any statute in force in Ontario which contravention would be punishable by imprisonment if committed by an adult; and
- (b)** the child is at least twelve years of age and under sixteen years of age,

a judge may order that the child be made a ward of the Crown and that the child be committed to the care of the Minister. 1978, c. 66, s. 3.

All  
admissions  
to be in  
accordance  
with this  
Act

**9.** A child shall not be admitted to a training school except in accordance with this Act. R.S.O. 1970, c. 467, s. 10.

Contents  
of order

**10.** The judge, in an order made under section 8, shall state, where practicable, the name, age and religious faith of the child. 1978, c. 66, s. 4.

Copy of  
evidence  
to Area  
Adminis-  
trator

**11.—(1)** Where a judge makes an order under section 8, the judge shall cause a copy of the evidence taken before the judge to be sent to the Area Administrator referred to in subsection 16 (1). 1978, c. 66, s. 5.

(2) The clerk of the court shall send by registered mail a certified copy of the order to the parent of the child, to the Ministry and to any other person the judge considers necessary. R.S.O. 1970, c. 467, s. 12 (2); 1972, c. 1, s. 1. Clerk to  
mail copies  
of order

**12.** A decision under section 8 may be appealed to the Divisional Court. R.S.O. 1970, c. 467, s. 13 (2). Appeal to  
Divisional  
Court

**13.** An appeal under this Act on behalf of a child may be made at the instance of a next friend. R.S.O. 1970, c. 467, s. 14. Appeal  
by next  
friend

**14.** As far as practicable, a Roman Catholic child shall be sent to such training school maintained by a Roman Catholic society or to such Ontario training school designated by the Minister as non-denominational as is determined by the regulations, and a child of any other religious faith shall be sent to such Ontario training school or such private training school, other than one maintained by a Roman Catholic society, as is determined by the regulations. R.S.O. 1970, c. 467, s. 15. Religion of  
child to be  
considered

**15.—(1)** The Minister may appoint one or more persons to act as an Area Administrator. Area  
Adminis-  
trator

(2) An Area Administrator shall,

- (a) supervise the management and operation of training schools and homes;
- (b) direct the training, treatment, care and control of children who are made wards of the Crown under this Act;
- (c) perform such other duties and functions as are prescribed by this Act or the regulations or by the Lieutenant Governor in Council.

Duties of  
Area  
Adminis-  
trator

(3) Any or all of the powers, duties and functions conferred, imposed upon or exercised by an Area Administrator by or under this Act may be delegated by the Area Administrator to any person or class of persons for the purpose of the effective administration of this Act and each delegation may be in respect of any or all training schools, homes or wards of the Crown under the authority of the Area Administrator and shall be subject to such limitations, restrictions, conditions and requirements as the Area Administrator considers necessary for the purpose. 1978, c. 66, s. 6. Delegation



Crown  
wardship

**16.**—(1) Where a child is made a ward of the Crown and committed to the care of the Minister by order of a judge under section 8, the Crown has and shall assume all the rights and duties of a legal guardian of such child and the rights and duties of the Crown in respect of the child shall be exercised by the Area Administrator for the area where the judge who made the order presides unless the Minister, by order, designates another Area Administrator for the purpose.

Rights of  
parents  
and other  
guardians

(2) During the period that a child is a ward of the Crown under this Act, the rights and duties of the child's parents or other guardians in respect of the care, custody and control of the child are suspended.

Transfer,  
release  
of ward

(3) Where a child is made a ward of the Crown under this Act, the Minister or the Area Administrator who exercises the rights and duties of the Crown in respect of the child shall, by order, place the ward in a training school or home, and may, from time to time,

(a) transfer the ward from one training school to another or to a home;

(b) transfer the ward from one home to another or to a training school; or

(c) release the ward from a training school or a home upon such conditions as the Minister or the Area Administrator thinks fit,

and where an order is made under clause (a), (b) or (c), the order shall indicate the Area Administrator who shall exercise the rights and duties referred to in subsection (1).

Expiry,  
termination  
of wardship

(4) The wardship of the Crown expires upon the ward attaining the age of eighteen years, but the Minister may terminate the wardship before that date,

(a) upon or at any time after the release of the ward from a training school or a home; or

(b) during the time that the ward is placed in a home.  
1978, c. 66, s. 7.

Visits by  
clergymen

**17.** A clergyman of the religious faith to which a child appears to belong may visit the child at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by the superintendent.  
R.S.O. 1970, c. 467, s. 18.

**18.** The Minister or any employee of the Ministry designated in writing by the Minister may designate any residential premises as a foster home for the purposes of this Act. 1978, c. 66, s. 8.

Designation  
of foster  
homes

**19.—(1)** A police officer, Area Administrator or person authorized by the Area Administrator who has reasonable and probable grounds to believe that a ward,

Appre-  
hension  
of ward

- (a) has left a training school without permission of the Area Administrator;
- (b) has left a home without permission of the Area Administrator or a person responsible for supervision in the home; or
- (c) has failed or refuses to return to a training school or home upon completion of authorized leave,

may, with or without a warrant, apprehend the ward and take the ward to a place of safety to be detained therein.

(2) A ward who is detained in a place of safety under subsection (1) shall be,

Return  
of ward

- (a) returned to the training school or home from which the ward was absent; or
- (b) transferred to a training school or home pursuant to an order made under subsection 16 (3).

as soon as possible, but no later than forty-eight hours after being detained therein.

(3) A warrant referred to in subsection (1) may be issued by a justice of the peace where the justice is satisfied on information laid before the justice on oath that the applicant has authority under subsection (1) to apprehend a ward.

Warrant

(4) Where a person authorized by a warrant issued under subsection (3) has reasonable and probable grounds to believe that the ward who is the subject of the warrant is on any premises, the person may enter the premises, if need be by force, and search for and remove the ward from the premises. 1978, c. 66, s. 9.

Search

**20.** Every person,

Penalties

- (a) who aids or abets any ward to leave a training school or a home without permission of the Area

Administrator or a person responsible for supervision in the home;

- (b) who knowingly harbours or conceals a ward who has left a training school or a home without permission of the Area Administrator or a person responsible for supervision in the home or who has failed or refuses to return to a training school or home upon completion of authorized leave; or
- (c) who knowingly makes, or procures to be made, any false statement in any return required under this Act,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. 1978, c. 66, s. 11.

Agreements

**21.** The Minister may enter into agreements with any person upon such terms and conditions as may be agreed for the provision of residential and other services to or on behalf of Crown wards. 1978, c. 66, s. 12.

Regulations

**22.** The Lieutenant Governor in Council may make regulations,

- (a) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof;
- (b) governing the conduct, discipline, rights and privileges of Crown wards under this Act;
- (c) designating training schools or classes of training schools for the purposes of this Act and the regulations;
- (d) governing the accommodation, facilities, equipment, training, treatment and other services to be provided in training schools;
- (e) prescribing the conditions under which children may leave training schools;
- (f) for determining the training schools to which children may be sent under section 14;
- (g) providing for the use in a training school of such products and articles as may be produced on the premises thereof, and for the sale of any surplus products or

articles that may be produced or manufactured on the premises thereof;

- (h) requiring training schools and homes to provide such information as is prescribed and prescribing the persons to whom such information shall be provided;
- (i) prescribing the number of members and duties of The Training Schools Advisory Board in addition to those duties mentioned in section 6;
- (j) governing the powers and duties of Area Administrators, superintendents and members of the staff of training schools and homes and prescribing the qualifications of members of homes and training schools;
- (k) providing for the apportionment and distribution of grants to societies maintaining private training schools out of moneys appropriated therefor by the Legislature and for the conditions governing the payment thereof;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (m) for the purposes of this Act and the regulations, defining "residential services" and "other services" and prescribing classes of services;
- (n) prescribing the classes of payments by way of provincial aid to any home or training school or class thereof and the methods of determining the amounts of payments and providing for the manner and time of payment and the terms and conditions for the payment thereof and the suspension and withholding of payments and for the making of deductions from payments;
- (o) establishing procedures providing for the review of decisions made under this Act affecting Crown wards. R.S.O. 1970, c. 467, s. 23; 1978, c. 66, s. 13.





## CHAPTER 509

### Travel Industry Act

#### 1. In this Act,

Interpre-  
tation

- (a) "Director" means the Director under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,  
c. 274
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "Registrar" means the Registrar appointed under section 2;
- (d) "regulations" means the regulations made under this Act;
- (e) "travel agent" means a person who carries on the business of selling to the public travel services provided by another person;
- (f) "travel salesman" means a person who deals with the public in the performance of the functions of the travel agent as set out in clause (e);
- (g) "travel service" means transportation, sleeping accommodation or other service for the use of a traveller, tourist or sightseer;
- (h) "travel wholesaler" means a person who purchases or acquires from another person rights to a travel service for the purposes of resale or who carries on the business of dealing with travel agents or other travel wholesalers for the sale of travel services provided by another;
- (i) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. 1974, c. 115, s. 1.

2.—(1) The Lieutenant Governor in Council shall appoint <sup>Registrar</sup>  
a Registrar for the purposes of this Act.

## Duties

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1974, c. 115, s. 2.

Acting as  
travel agents  
and travel  
wholesalers

**3.**—(1) No person shall act or hold himself out as being available to act as a travel agent or travel wholesaler unless he is registered by the Registrar under this Act.

Offices of  
travel agents

(2) A travel agent shall not conduct business from a place at which the public is invited to deal unless it is named in the registration and, where there is more than one such place, one shall be designated in the registration as the main office and the remainder as branch offices.

Acting as  
travel  
salesman

(3) No person shall act as a travel salesman unless he is registered by the Registrar under this Act. 1974, c. 115, s. 3.

Coming into  
force of  
subs. (3)

(4) Subsection (3) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1974, c. 115, s. 28.

Registration  
of agencies

**4.**—(1) An applicant is entitled to registration or renewal of registration as a travel agent or travel wholesaler by the Registrar except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
  - (i) is incorporated without share capital; or
  - (ii) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
  - (iii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) A travel agent or applicant for registration as a travel agent is entitled to have any place of business he specifies named in the registration except such branch offices as are in contravention of the regulations. Registration of offices of travel agents

(3) An applicant is entitled to registration or renewal of registration as a travel salesman by the Registrar except where, Registration of travel salesmen

(a) he is a corporation; or

(b) he is not in the employ of a travel agent; or

(c) the past conduct of the applicant affords reasonable grounds for belief that he will not carry out his duties in accordance with law and with integrity and honesty.

(4) Without restricting the generality of clause (1) (b), subclause (1) (c) (iii) and subsection (3), a conviction within the previous five years for theft in any of its forms or for an offence under paragraph 95 (h), (i), (j) or (m) of the *Immigration Act*, 1976 (Canada) is sufficient grounds for the purpose of those provisions. Integrity 1976-77, c. 52 (Can.)

(5) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1974, c. 115, s. 4. Conditions of registration

**5.—**(1) Subject to section 6, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 4. Refusal to register

(2) Subject to section 6, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 4 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1974, c. 115, s. 5. Revocation and refusal to renew

**6.—**(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration or to refuse to name a branch office in a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant. Notice of proposal to refuse or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing. Notice requiring hearing



Powers of Registrar where no hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of Tribunal

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1974, c. 115, s. 6.

Interim suspension

7. Where the Registrar proposes to suspend or revoke a registration, the Registrar may, where the Registrar considers it to be necessary in the public interest, by order temporarily suspend the registration and the order shall take effect immediately and where a hearing is required, the order expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Tribunal holding the hearing may extend the time of expiration until the hearing is concluded. 1974, c. 115, s. 7.

Order effective, stay

R.S.O. 1980, c. 274

8. Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1974, c. 115, s. 8.

Continuance pending renewal

9. Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order. 1974, c. 115, s. 9.

**10.** A registration is not transferable. 1974, c. 115, s. 10. Registration  
not  
transferable

**11.—(1)** In this section, “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing. “Equity  
share”  
defined

(2) Every registrant that is a corporation shall notify the Registrar in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock where such issue or transfer results in, Notice of  
transfer of  
shares

- (a) any shareholder and shareholders associated with him acquiring or accumulating at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or
- (b) any shareholder and shareholders associated with him who already own 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(3) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. Idem

(4) Where a registrant that is a corporation is aware that a transfer that comes within the provisions of subsection (2) has taken place, it shall notify the Registrar in writing within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer. Idem

(5) For the purposes of subsection (2), a shareholder shall be deemed to be associated with another shareholder if, Associated  
shareholder

- (a) one shareholder is a company of which the other shareholder is an officer or director;

- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Application  
of s. 10

(6) Where, in the opinion of the Registrar, an issue or transfer of equity shares of capital stock of a registered corporation results in a shareholder and shareholders associated with him having a material or substantial interest in the corporation, such issue or transfer shall be deemed to be a change of ownership for the purposes of section 10 and the registration ceases to exist except with the consent of the Registrar and the provisions of this Act applying to the refusal to renew a registration apply, with necessary modifications, to the refusal to give a consent under this subsection. 1974, c. 115, s. 11.

Notice of  
material  
changes

**12.**—(1) Every travel agent and travel wholesaler shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in its address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership; and
- (c) any commencement or termination of employment of a travel salesman.

Idem

(2) Every travel salesman shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service;
- (b) any commencement or termination of his employment. 1974, c. 115, s. 12.

Liability for  
deposits

**13.**—(1) Where any person is entitled to the repayment of any money paid for or on account of a travel service,

any travel agent and any travel wholesaler who received such money or any part thereof is liable jointly and severally with any other person liable therefor, for the repayment of such money to the extent of the amount received by him. 1974, c. 115, s. 13.

(2) Subsection (1) does not apply where,

Application  
of subs. (1)

- (a) the travel agent or travel wholesaler has properly disbursed the money received;
- (b) the travel agent or travel wholesaler has acted in good faith and at arm's length with any person with whom he would, but for this subsection, be jointly liable under subsection (1); and
- (c) the person referred to in subsection (1) who is entitled to repayment of money is entitled to be reimbursed therefor out of the compensation fund established under the regulations,

unless the travel agent or travel wholesaler would, but for this subsection, be jointly liable under subsection (1) with a travel agent and travel wholesaler who is not registered under this Act. 1976, c. 53, s. 1.

**14.**—(1) No travel salesman shall be in the employ of, or act on behalf of, a travel agent other than the one for whom he is registered as a salesman on the records of the Registrar and no travel salesman is entitled to or shall accept any commission or other remuneration from any person except the travel agent for whom he is registered.

Travel  
salesman to  
work for one  
employer

(2) No travel agent shall,

Employment  
of un-  
registered  
person or  
travel  
salesman of  
other travel  
agent

- (a) employ or engage the travel salesman of another travel agent or permit such salesman to act on his behalf;
- (b) employ or engage an unregistered person to act as a travel salesman or permit such person to act on his behalf; or
- (c) pay any commission or other remuneration to any person referred to in clause (a) or (b),

but this subsection does not prevent the employing, engaging or paying of a person who is duly registered or licensed as a travel salesman or its equivalent in another jurisdiction in respect of the arranging for travel services in that jurisdiction. 1974, c. 115, s. 14.

(3) Subsections (1) and (2) do not come into force until a day to be named by proclamation of the Lieutenant Governor. 1974, c. 115, s. 28.

Coming into  
force of  
subss. (1, 2)



False  
advertising

**15.** Where the Registrar believes on reasonable and probable grounds that a travel agent or travel wholesaler is making false, misleading or deceptive statements in any advertisement, or that the advertisement is in contravention of the regulations, the Registrar may order the immediate cessation of the use of such advertising and sections 6 to 8 apply with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse a registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1974, c. 115, s. 15.

Financial  
statements

**16.—(1)** Every travel agent and travel wholesaler shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matter specified by the Registrar and signed by the travel agent and travel wholesaler and certified by a person licensed under the *Public Accountancy Act*.

R.S.O. 1980,  
c. 405

Statement  
confidential

(2) The information contained in a financial statement filed under subsection (1) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. 1974, c. 115, s. 16.

Inspection

**17.—(1)** The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a travel agent or travel wholesaler to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a travel agent or travel wholesaler without being registered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on  
inspection

(3) Upon an inspection under this section, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the

purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(4) Any copy made as provided in subsection (3) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1974, c. 115, s. 17. <sup>Admissibility of copies</sup>

**18.**—(1) Where the Registrar receives a written complaint in respect of a travel agent or travel wholesaler and so directs in writing, the travel agent or travel wholesaler shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. <sup>Investigation of complaints</sup>

(2) The direction under subsection (1) shall indicate the nature of the complaint involved. <sup>Idem</sup>

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may on notice at any reasonable time enter upon the business premises of the travel agent or travel wholesaler to make an inspection in relation to the complaint. 1974, c. 115, s. 18. <sup>Idem</sup>

**19.** The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1974, c. 115, s. 19. <sup>Investigation on order of Minister</sup>

**20.**—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, <sup>Investigation by Director</sup>

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act, <sup>R.S.C. 1970, c. C-34</sup>

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents, consumer files and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

R.S.O. 1980,  
c. 411

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Entry and  
search

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry

and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Certified copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). 1974, c. 115, s. 20. Appointment of expert

**21.**—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 17, 18, 19 or 20 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1974, c. 115, s. 21. Testimony in civil suit

**22.**—(1) Where,

Order to refrain from dealing with assets



- (a) an investigation of any person has been ordered under section 20; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which registration is required under this Act,

the Director, if he believes it advisable for the protection of customers of the person referred to in clause (a) or (b), may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause (a) or (b) to hold such assets or trust funds or direct the person referred to in clause (a) or (b) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970,  
cc. B-3, W-10  
R.S.O. 1980,  
cc. 223, 95, 5-

Bond in  
lieu

(2) Subsection (1) does not apply where the person referred to in clause (1) (a) or (b) files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

R.S.O. 1980,  
c. 192

in such form, terms and amount as the Director may determine.

Application  
for  
direction

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may

apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

(4) In any of the circumstances mentioned in clause (1) (a) or (b), <sup>Notice to registrar of deeds, etc.</sup> the Director may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

(5) Any person referred to in clause (1) (a) or (b) in respect of whom a direction has been given by the Director under subsection (1) or any person having an interest in land in respect of which a notice has been registered under subsection (4) may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 1976, c. 53, s. 2. <sup>Cancellation of direction or registration</sup>

**23.**—(1) Any notice or order required to be given, <sup>Service</sup> delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

(2) Where service is made by mail, the service shall be <sup>Idem</sup> deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1974, c. 115, s. 22.

**24.**—(1) Where it appears to the Director that any person <sup>Restraining order</sup> does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may

have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

**Appeal** (2) An appeal lies to the Divisional Court from an order made under subsection (1). 1974, c. 115, s. 23.

**Offences** **25.—**(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**Corporations** (2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

**Limitation** (3) No proceeding under clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

**Idem** (4) No proceeding under clause (1) (b) or (c) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1974, c. 115, s. 24.

**Certificate as evidence** **26.—**(1) A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or

- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister. 1974, c. 115, s. 25. Proof of Minister's signature

**27.** The Lieutenant Governor in Council may make Regulations regulations,

- (a) exempting any class of persons from this Act or the regulations or any provision thereof;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) providing for the expiration and renewal of registrations;
- (d) requiring the payment of fees on application for registration or renewal of registration, or any class thereof, and prescribing the amounts thereof;
- (e) requiring travel agents and travel wholesalers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (f) requiring and governing the maintenance of trust accounts by travel agents and travel wholesalers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions therefor;
- (g) governing the form and content of advertising by travel agents and travel wholesalers;
- (h) regulating the management and operation of branch offices of travel agents;



- (i) governing contracts for the purchase or acquisition of travel services by travel wholesalers;
- (j) requiring and governing the establishment and maintenance of compensation funds in trust by travel agents and travel wholesalers and the form and terms of the trust;
- (k) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by travel agents and travel wholesalers;
- (l) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (m) prescribing forms for the purposes of this Act and providing for their use;
- (n) requiring any information required to be furnished or contained in any form or return to be verified by affidavit. 1974, c. 115, s. 26.

**Moneys**

**28.** The moneys required for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 115, s. 27.

## CHAPTER 510

## Trees Act

## TREES ON BOUNDARY LINES

**1.** In this Act,Interpre-  
tation

- (a) “county” includes a district municipality and a regional municipality;
- (b) “dbh” means the diameter of the stem of a tree measured at a point that is four and one-half feet above ground;
- (c) “forestry purposes” includes the production of wood and wood products, provision of proper environmental conditions for wildlife, protection against floods and erosion, recreation, and protection and production of water supplies;
- (d) “Minister” means the Minister of Natural Resources;
- (e) “woodlot” means an area having not less than,
  - (i) 400 trees per acre of any size,
  - (ii) 300 trees per acre measuring more than two inches dbh,
  - (iii) 200 trees per acre measuring more than five inches dbh, or
  - (iv) 100 trees per acre measuring more than eight inches dbh. R.S.O. 1970, c. 468, s. 1; 1979, c. 51, s. 1.

**2.** An owner of land may, with the consent of the owner of adjoining land, plant trees on the boundary between such lands, and every tree so planted shall be the common property of the owners. R.S.O. 1970, c. 468, s. 2.

Trees on  
boundary  
lines

**3.** Every person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands, or who suffers or permits any animal in his charge to injure or destroy or who trims, cuts down or removes any such tree

Injuring  
trees

without the consent of the owners thereof, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. R.S.O. 1970, c. 468, s. 3; 1979, c. 51, s. 2.

#### TREES CONSERVATION

By-law  
restricting  
cutting of  
trees

4.—(1) Subject to the written approval of the Minister, the council of any county or of any municipality separated from the county for municipal purposes may pass by-laws,

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.

Entry  
on land

(2) An officer appointed under a by-law passed under subsection (1), or any predecessor thereof, and any person acting under his instructions may at all reasonable times enter upon the land of any person for the purpose of,

- (a) enforcing such by-law;
- (b) determining compliance with an order made under subsection 6 (2); or
- (c) examining trees that might be affected by a minor exception authorized under subsection 9 (1).

Territorial  
limitation  
of by-law

(3) A by-law passed under subsection (1), or any predecessor thereof, may be limited territorially.

Approval  
of by-law

(4) The approval referred to in subsection (1) may be given before or after the by-law is passed.

Validity  
of past  
approvals  
of by-law

(5) Every approval heretofore given under any predecessor of subsection (1) shall be deemed to be valid whether given before or after the by-law was passed. 1979, c. 51, s. 3.

Exceptions

5.—(1) A by-law passed under subsection 4 (1), or any predecessor thereof, does not,

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;
- (b) interfere with any rights or powers conferred upon a municipality by the *Municipal Act*;

- (c) interfere with any rights or powers of Ontario Hydro or of any agency, board or commission that is performing its functions for or on behalf of the Crown;
- (d) apply to trees growing upon any highway or upon any opened road allowance;
- (e) apply to trees growing in a woodlot that is two acres or less in area, unless the by-law provides expressly that it applies to trees in such a woodlot;
- (f) apply to trees destroyed in order to erect any building, structure or thing in respect of which a building permit is issued;
- (g) apply to trees planted for the production of Christmas trees;
- (h) apply to trees cut by an Ontario land surveyor registered under the *Surveyors Act* or any person in his employ while making a survey; R.S.O. 1980, c. 492
- (i) apply to trees on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Pits and Quarries Control Act*; R.S.O. 1980, c. 378
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under section 2 of the *Pits and Quarries Control Act*; or
- (k) apply to trees that are cut in accordance with good forestry practice.

(2) The expression "own use" in clause (1) (a) shall be deemed "own use" not to include any sale, exchange or other disposition of the trees that are cut. 1979, c. 51, s. 4. does not include sale, etc.

**6.—(1)** Every person who,

Offences

- (a) by himself or through any other person, contravenes any provision of a by-law passed under subsection 4 (1), or any predecessor thereof;
- (b) obstructs, hinders or interferes with an officer appointed under a by-law passed under subsection 4 (1), or any predecessor thereof, or any person acting under his instructions, in the discharge of his duties; or



- (c) fails or neglects, without just cause, to carry out an order made against him under subsection (2),

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both.

Replanting

(2) Where a person is convicted of an offence under clause (1) (a), the court shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the said area to replant or have replanted thereon such trees in such manner and within such period of time as the court considers just and to adequately maintain the replanted trees in such manner as the court considers proper. 1979, c. 51, s. 5.

MUNICIPAL REFORESTATION

County  
by-laws for  
acquiring  
lands for  
forestry  
purposes

7. The council of any county may pass by-laws,

- (a) for acquiring by purchase, lease or otherwise land for forestry purposes;
- (b) for declaring land that is owned by the municipality to be required by the municipality for forestry purposes;
- (c) for planting and protecting trees on any land acquired for or declared to be required for forestry purposes;
- (d) for the management of any land acquired for or declared to be required for forestry purposes and the sale or other disposition of the trees thereon;
- (e) for the issuing of debentures, without the assent of the electors but subject to the approval of the Ontario Municipal Board, from time to time for the purpose of providing for the purchase of land for forestry purposes to an amount not exceeding \$25,000 to be owing at any one time;
- (f) for entering into agreements for the management of any land acquired for or declared to be required for forestry purposes;
- (g) for leasing, selling or otherwise disposing of any land acquired for or declared to be required for forestry purposes. R.S.O. 1970, c. 468, s. 7.

**8.** In any prosecution under this Act,Evidence in  
prosecutions

- (a) a copy of an instrument certified under section 17 of the *Registry Act* or a certificate of search issued under section 116 of the *Land Titles Act* is admissible in evidence as *prima facie* proof of the matters therein contained; and
- (b) a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as *prima facie* proof of the matters therein contained. 1979, c. 51, s. 6, *part*.

R.S.O. 1980,  
cc. 445, 230

**9.**—(1) Upon the application of the owner of any trees affected by a by-law passed under subsection 4 (1), or any predecessor thereof, or any person authorized in writing by the owner, the council of the municipality that passed the by-law may, by by-law or resolution, authorize such minor exception from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

Application  
for minor  
exception

(2) Where the council of a municipality receives an application under subsection (1), the clerk of the municipality shall give notice of the application to the owners of each parcel of land that abuts the land of the owner of the trees in respect of which the application is made and to such other owners as the council considers proper.

Notice of  
application

(3) A notice under subsection (2) shall be deemed to be sufficiently given if served upon an owner,

Service of  
notice

- (a) personally;
- (b) by leaving it at his or her place of business or residence;
- (c) by registered mail addressed to his or her place of business or residence, if known, or to his or her place of business or residence as set forth in the last revised assessment roll of the municipality in which the land is situate; or
- (d) if the place of business and residence of the owner are not known, by leaving it with any person being at least sixteen years of age on the land of the owner or by posting it in two conspicuous places on such land.

Content of  
notice

(4) A notice under subsection (2) shall contain,

- (a) the name and address of the owner who has made the application for a minor exception or on whose behalf the application has been made;
- (b) a description of the land of the owner in respect of which the application has been made;
- (c) a description of the nature and extent of the trees on such land;
- (d) a description of the purpose, nature and extent of the minor exception for which application has been made; and
- (e) the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection (1).

Notice to  
applicant

(5) The clerk of the municipality shall give notice in such manner as he considers proper to the owner who has made the application or on whose behalf the application has been made of the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection (1).

Conditions  
precedent

(6) No meeting of the council shall be held to consider passing a by-law or resolution under subsection (1) unless,

- (a) twenty-one days have elapsed after required notices have been given in accordance with this section; and
- (b) the giving of such notices is proved by affidavit or declaration.

Entitlement  
to be  
heard

(7) The council shall hear in person, or by his counsel or agent, the applicant and any person who claims that his land will be prejudicially affected by the by-law or resolution.

Approval of  
Minister  
not required

(8) No by-law or resolution passed under subsection (1) requires the approval of the Minister. 1979, c. 51, s. 6, *part*.

Payment  
in lieu of  
taxes

**10.** The council of a county may agree to pay annually to the council of a municipality in which the county owns land acquired or declared to be required for forestry purposes a sum not exceeding the amount that would have been payable

to the municipality as taxes if the land were not exempt from taxation. R.S.O. 1970, c. 468, s. 8.

**11.**—(1) The council of any city, town, village or township, <sup>Powers of certain local municipalities</sup> having a population of not less than 10,000, has all the powers, privileges and authority conferred on the council of a county by section 7.

(2) Land may be acquired under subsection (1) in another <sup>Acquisition of land in another municipality</sup> municipality with the consent of the council thereof.

(3) Where a municipality acquires land in another <sup>Payments</sup> municipality under this section, the council of the first-mentioned municipality may agree to pay annually to the municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. R.S.O. 1970, c. 468, s. 9.

**12.**—(1) The council of any township having a population of <sup>Powers of township councils</sup> less than 10,000 has all the powers, privileges and authority conferred by clauses 7 (a), (b), (c), (d), (f) and (g) on the council of a county.

(2) The council of any township may levy by special rate <sup>Idem</sup> a sum not exceeding \$1,000 in any year for the purpose of providing for the purchase of such land. R.S.O. 1970, c. 468, s. 10.

**13.**—(1) The council of any township may enter into agree- <sup>Agreements as to re-forestation areas</sup> ments with the owners of lands located in the township providing for,

- (a) the reforestation of portions of such lands;
- (b) the entry and planting of trees upon such portions by the servants or agents of the council; and
- (c) the fencing of such portions and conservation of all growing trees thereon by the owner.

(2) No such agreement shall provide for the reforestation <sup>Acreage</sup> of less than five acres of land for every one hundred acres belonging to the same owner. R.S.O. 1970, c. 468, s. 11 (1, 2).

(3) Every such agreement shall prescribe the conditions <sup>Cutting</sup> under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister. 1979, c. 51, s. 7.



Exemption  
from  
taxation

(4) The council of the township may exempt any such portion from general taxation as long as it continues to be used for the purposes set out in the agreement.

Agreements  
with  
Ministers  
of Labour

(5) The council of the township may enter into agreements with the Minister of Labour for Canada and the Minister of Labour for Ontario regulating the conditions of labour and the payment of wages in respect of labour performed in connection with the planting and conservation of trees in such portions. R.S.O. 1970, c. 468, s. 11 (4, 5).

Approval  
of by-law  
by Minister

**14.** No by-law shall be finally passed under section 7, 10, 11, 12 or 13 until approved in writing by the Minister. 1979, c. 51, s. 8.

## CHAPTER 511

## Trespass to Property Act

## 1.—(1) In this Act,

Interpre-  
tation

## (a) “occupier” includes,

- (i) a person who is in physical possession of premises, or
- (ii) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

## (b) “premises” means lands and structures, or either of them, and includes,

- (i) water,
- (ii) ships and vessels,
- (iii) trailers and portable structures designed or used for residence, business or shelter,
- (iv) trains, railway cars, vehicles and aircraft, except while in operation.

(2) A school board has all the rights and duties of an occupier in respect of its school sites as defined in the *Education Act*. 1980, c. 15, s. 1. School  
boards  
R.S.O. 1980,  
c. 129

2.—(1) Every person who is not acting under a right or authority conferred by law and who, Trespass  
an offence

## (a) without the express permission of the occupier, the proof of which rests on the defendant,

- (i) enters on premises when entry is prohibited under this Act, or
- (ii) engages in an activity on premises when the activity is prohibited under this Act; or

- (b) does not leave the premises immediately after he is directed to do so by the occupier of the premises or a person authorized by the occupier,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Colour  
of right  
as a  
defence

(2) It is a defence to a charge under subsection (1) in respect of premises that is land that the person charged reasonably believed that he had title to or an interest in the land that entitled him to do the act complained of. 1980, c. 15, s. 2.

Prohibition  
of entry

**3.—**(1) Entry on premises may be prohibited by notice to that effect and entry is prohibited without any notice on premises,

- (a) that is a garden, field or other land that is under cultivation, including a lawn, orchard, vineyard and premises on which trees have been planted and have not attained an average height of more than two metres and woodlots on land used primarily for agricultural purposes; or
- (b) that is enclosed in a manner that indicates the occupier's intention to keep persons off the premises or to keep animals on the premises.

Implied  
permission  
to use  
approach  
to door

(2) There is a presumption that access for lawful purposes to the door of a building on premises by a means apparently provided and used for the purpose of access is not prohibited. 1980, c. 15, s. 3.

Limited  
permission

**4.—**(1) Where notice is given that one or more particular activities are permitted, all other activities and entry for the purpose are prohibited and any additional notice that entry is prohibited or a particular activity is prohibited on the same premises shall be construed to be for greater certainty only.

Limited  
prohibition

(2) Where entry on premises is not prohibited under section 3 or by notice that one or more particular activities are permitted under subsection (1), and notice is given that a particular activity is prohibited, that activity and entry for the purpose is prohibited and all other activities and entry for the purpose are not prohibited. 1980, c. 15, s. 4.

Method  
of giving  
notice

**5.—**(1) A notice under this Act may be given,

- (a) orally or in writing;
- (b) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the

approach to each ordinary point of access to the premises to which it applies; or

(c) by means of the marking system set out in section 7.

(2) Substantial compliance with clause (1) (b) or (c) is sufficient notice. 1980, c. 15, s. 5. <sup>Substantial compliance</sup>

**6.**—(1) A sign naming an activity or showing a graphic representation of an activity is sufficient for the purpose of giving notice that the activity is permitted. <sup>Form of sign</sup>

(2) A sign naming an activity with an oblique line drawn through the name or showing a graphic representation of an activity with an oblique line drawn through the representation is sufficient for the purpose of giving notice that the activity is prohibited. 1980, c. 15, s. 6. <sup>Idem</sup>

**7.**—(1) Red markings made and posted in accordance with subsections (3) and (4) are sufficient for the purpose of giving notice that entry on the premises is prohibited. <sup>Red markings</sup>

(2) Yellow markings made and posted in accordance with subsections (3) and (4) are sufficient for the purpose of giving notice that entry is prohibited except for the purpose of certain activities and shall be deemed to be notice of the activities permitted. <sup>Yellow markings</sup>

(3) A marking under this section shall be of such a size that a circle ten centimetres in diameter can be contained wholly within it. <sup>Size</sup>

(4) Markings under this section shall be so placed that a marking is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies. 1980, c. 15, s. 7. <sup>Posting</sup>

**8.** A notice or permission under this Act may be given in respect of any part of the premises of an occupier. 1980, c. 15, s. 8. <sup>Notice applicable to part of premises</sup>

**9.**—(1) A police officer, or the occupier of premises, or a person authorized by the occupier may arrest without warrant any person he believes on reasonable and probable grounds to be on the premises in contravention of section 2. <sup>Arrest without warrant on premises</sup>

(2) Where the person who makes an arrest under subsection (1) is not a police officer, he shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer. <sup>Delivery to police officer</sup>



Application  
of  
R.S.O. 1980,  
c. 460

(3) A police officer to whom the custody of a person is given under subsection (2) shall be deemed to have arrested the person for the purposes of the provisions of the *Provincial Offences Act* applying to his release or continued detention and bail. 1980, c. 15, s. 9.

Arrest  
without  
warrant  
off premises

**10.** Where a police officer believes on reasonable and probable grounds that a person has been in contravention of section 2 and has made fresh departure from the premises, and the person refuses to give his name and address, or there are reasonable and probable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant. 1980, c. 15, s. 10.

Motor  
vehicles  
R.S.O. 1980,  
c. 198

**11.** Where an offence under this Act is committed by means of a motor vehicle, as defined in the *Highway Traffic Act*, the driver of the motor vehicle is liable to the fine provided under this Act and, where the driver is not the owner, the owner of the motor vehicle is liable to the fine provided under this Act unless the driver is convicted of the offence or, at the time the offence was committed, the motor vehicle was in the possession of a person other than the owner without the owner's consent. 1980, c. 15, s. 11.

Damage  
award

**12.—(1)** Where a person is convicted of an offence under section 2, and a person has suffered damage caused by the person convicted during the commission of the offence, the court shall, on the request of the prosecutor and with the consent of the person who suffered the damage, determine the damages and shall make a judgment for damages against the person convicted in favour of the person who suffered the damage, but no judgment shall be for an amount in excess of \$1,000.

Costs of  
prosecution

(2) Where a prosecution under section 2 is conducted by a private prosecutor, and the defendant is convicted, unless the court is of the opinion that the prosecution was not necessary for the protection of the occupier or his interests, the court shall determine the actual costs reasonably incurred in conducting the prosecution and, notwithstanding section 61 of the *Provincial Offences Act*, shall order those costs to be paid by the defendant to the prosecutor.

Damages  
and costs  
in addition  
to fine

(3) A judgment for damages under subsection (1), or an award of costs under subsection (2), shall be in addition to any fine that is imposed under this Act.

Civil  
action

(4) A judgment for damages under subsection (1) extinguishes the right of the person in whose favour the judgment is made to

bring a civil action for damages against the person convicted arising out of the same facts.

(5) The failure to request or refusal to grant a judgment for damages under subsection (1) does not affect a right to bring a civil action for damages arising out of the same facts. <sup>Idem</sup>

(6) The judgment for damages under subsection (1), and the award for costs under subsection (2), may be filed in a small claims court and shall be deemed to be a judgment or order of that court for the purposes of enforcement. <sup>Enforce-  
ment</sup> 1980, c. 15, s. 12.



## CHAPTER 512

## Trustee Act

## 1. In this Act,

Interpre-  
tation

- (a) “assign” means the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring land of which such person is possessed, either for the whole estate of the person so possessed or for any less estate, and “assignment” has a corresponding meaning;
- (b) “contingent right” as applied to land includes a contingent and executory interest, and a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, and also a right of entry whether immediate or future, vested or contingent;
- (c) “convey” applied to a person means the execution and delivery by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, and “conveyance” has a corresponding meaning;
- (d) “devisee” includes the heir of a devisee, and the devisee of an heir, and any person who may claim right by devolution of title of a similar description;
- (e) “instrument” includes a deed, a will and a written document and an Act of the Legislature, but not a judgment or order of a court;
- (f) “land” includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs,



and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;

- (g) "mental incompetent" or "mentally incompetent person" means any person who has been declared a mentally incompetent person;
- (h) "mortgage" is applicable to every estate, interest or property, in land or personal estate, that is merely a security for money, and "mortgagee" has a corresponding meaning and includes every person deriving title under the original mortgagee;
- (i) "person of unsound mind" means any person, not a minor, who, not having been declared a mentally incompetent person, is incapable, from infirmity of mind, to manage his own affairs;
- (j) "personal estate" includes leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;
- (k) "personal representative" means an executor, an administrator, and an administrator with the will annexed;
- (l) "possessed" is applicable to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in any land;
- (m) "securities" includes stocks, funds and shares;
- (n) "seized" is applicable to any vested interest for life, or of a greater description, and extends to estates, legal and equitable, in possession, or in futurity, in any land;
- (o) "stock" includes fully paid-up shares, and any fund, annuity, or security transferable in books kept by any incorporated bank, company or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein;

- (p) “transfer”, in relation to stock, includes the performance and execution of every deed, power of attorney, act or thing, on the part of the transferor to effect and complete the title in the transferee;
- (q) “trust” does not mean the duties incident to an estate conveyed by way of mortgage; but, with this exception, includes implied and constructive trusts and cases where the trustee has some beneficial estate or interest in the subject of the trust, and extends to and includes the duties incident to the office of personal representative of a deceased person, and “trustee” has a corresponding meaning and includes a trustee however appointed and several joint trustees;
- (r) “will” includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of the *Minors Act*,<sup>R.S.O. 1980, c. 292</sup> and any other testamentary disposition. R.S.O. 1970, c. 470, s. 1.

#### RETIREMENT OF TRUSTEES

**2.—**(1) Where there are more than two trustees, if one of them by deed declares that he desires to be discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee who desires to be discharged shall be deemed to have retired from the trust, and is, by the deed, discharged therefrom under this Act without any new trustee being appointed in his place.

<sup>Retirement of trustees</sup>

(2) This section does not apply to executors or administrators. R.S.O. 1970, c. 470, s. 2.

<sup>Application of section</sup>

#### APPOINTMENT OF NEW TRUSTEES

**3.—**(1) Where a trustee dies or remains out of Ontario for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, or has been convicted of an indictable offence or is bankrupt or insolvent, the person nominated for the purpose of appointing new trustees by the

<sup>Power of appointing new trustees</sup>

instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may by writing appoint another person or other persons (whether or not being the persons exercising the power) to be a trustee or trustees in the place of the trustee dying, remaining out of Ontario, desiring to be discharged, refusing or being unfit or incapable. R.S.O. 1970, c. 470, s. 3 (1); 1978, c. 22, s. 1.

**Survivorship** (2) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or where there were two or more trustees, of the last surviving or continuing trustee, are or is capable of exercising or performing any power or trust that was given to or capable of being exercised by the sole or last surviving trustee. R.S.O. 1970, c. 470, s. 3 (2).

**Authority of surviving trustee to appoint successor by will**

4. Subject to the terms of any instrument creating a trust, the sole trustee or the last surviving or continuing trustee appointed for the administration of the trust may appoint by will another person or other persons to be a trustee or trustees in the place of the sole or surviving or continuing trustee after his death. R.S.O. 1970, c. 470, s. 4.

**Power of court to appoint new trustees**

5.—(1) The Supreme Court may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

**Limitation of effect of order**

(2) An order under this section and any consequential vesting order or conveyance does not operate as a discharge from liability for the acts or omissions of the former or continuing trustees. R.S.O. 1970, c. 470, s. 5.

**What may be done:**

6. On the appointment of a new trustee for the whole or any part of trust property,

**increase in number**

(a) the number of trustees may be increased; and

**separate trustees for distinct trusts**

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

- (c) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under section 3 from his trust unless there will be a trust company or at least two individuals as trustees to perform the trust; and
- (d) any assurance or thing requisite for vesting the trust property, or any part thereof, in the person who is the trustee, or jointly in the persons who are the trustees, shall be executed or done. R.S.O. 1970, c. 470, s. 6.

7. Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, has the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. R.S.O. 1970, c. 470, s. 7.

8. The provisions of this Act relative to the appointment of new trustees apply to the case of a person nominated trustee in a will but dying before the testator. R.S.O. 1970, c. 470, s. 8.

#### VESTING INSTRUMENTS

9.—(1) Where an instrument, executed after the 1st day of July, 1886, by which a new trustee is appointed to perform any trust, contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any personal estate so subject, shall vest in the person or persons who, by virtue of such instrument, shall become and be the trustee or trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in him, or in them as joint tenants, and for the purposes of the trust, that estate, interest or right.

(2) Where such an instrument, by which a retiring trustee is discharged under this Act, contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone as joint tenants, and for the purposes of the trust, the estate, interest or right to which the declaration relates.



Application  
to mort-  
gages, stocks,  
shares, etc.

(3) This section does not extend to land conveyed by way of mortgage for securing money subject to the trust, or to any share, stock, annuity, or property transferable only in books kept by a company or other body, or in manner prescribed by or under an Act of the Parliament of Canada or of the Legislature.

Interpre-  
tation for  
registration  
purposes

(4) For the purpose of registration the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act. R.S.O. 1970, c. 470, s. 9.

VESTING ORDERS, ORDERS RELEASING CONTINGENT  
RIGHTS, ETC.

Vesting  
orders

**10.—**(1) In any of the following cases:

- (a) where the Supreme Court appoints or has appointed a new trustee; or
- (b) where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person is a minor, or is out of Ontario, or cannot be found; or
- (c) where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; or
- (d) where it is uncertain whether the last trustee known to have been entitled to or possessed of any land is living or dead; or
- (e) where there is no heir or personal representative of a trustee who was entitled to or possessed of land and has died intestate as to that land, or where it is uncertain who is the heir or personal representative or devisee of a trustee who was entitled to or possessed of land and is dead; or
- (f) where a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right therein, has been required by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right, and has wilfully refused or neglected to convey the land or release the right for fourteen days after the date of the requirement,

the Supreme Court may make an order, vesting the land in any such person in any such manner, and for any such estate, as the court may direct, or releasing, or disposing of the contingent right to such person as the court may direct.

(2) Where the order is consequential on the appointment of a new trustee the land shall be vested for such estate as the court may direct in the persons who, on the appointment, are the trustees. <sup>Vesting of estate</sup>

(3) Where the order relates to a trustee entitled jointly with another person, and such trustee is out of Ontario or cannot be found, the land or right shall be vested in such other person, either alone or with some other person. <sup>Where trustee out of Ontario</sup>  
R.S.O. 1970, c. 470, s. 10.

**11.** Where any land is subject to a contingent right in an unborn person, or a class of unborn persons, who, on coming into existence, would, in respect thereof, become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which the unborn person, or class of unborn persons, would, on coming into existence, be entitled or possessed in the land. <sup>Orders as to contingent rights of unborn persons</sup> R.S.O. 1970, c. 470, s. 11.

**12.** Where any person entitled to or possessed of land, or entitled to any contingent right in land, by way of security for money, is an infant, the Supreme Court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of a minor trustee. <sup>Vesting order in place of conveyance by minor mortgagee</sup> R.S.O. 1970, c. 470, s. 12.

**13.—**(1) In any of the following cases:

(a) where the Supreme Court appoints, or has appointed, a new trustee; or

(b) where a trustee entitled alone, or jointly with another person, to stock or to a chose in action,

(i) is a minor, or

(ii) is out of Ontario, or

(iii) cannot be found, or

(iv) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action, according to the direction of the person absolutely en-

<sup>Vesting orders as to stock and choses in action</sup>

titled thereto, for fourteen days next after a request in writing has been made to him by the person so entitled, or

- (v) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action for fourteen days next after an order of the Supreme Court for that purpose has been served on him; or

- (c) where it is uncertain whether a trustee entitled, alone or jointly with another person, to stock or to a chose in action is alive or dead,

the Supreme Court may make an order vesting the right to transfer, or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a chose in action, in any such person as the court may appoint.

Vesting in  
new trustee

- (2) Where the order is consequential on the appointment by the court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees.

Vesting  
in person  
having joint  
interest

- (3) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone, or jointly with any other person whom the court may appoint.

Appointment  
of person to  
transfer

- (4) Where a vesting order may be made under this section the court may, if it is more convenient, appoint some proper person to make, or join in making, the transfer.

Transfer,  
how to be  
made

- (5) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Act may transfer the stock to himself, or any other person, according to the order, and all incorporated banks and all companies shall obey every order made under this section.

After notice  
of order, no  
transfer to  
be made  
contrary  
thereto

- (6) After notice in writing of an order under this section, it is not lawful for any incorporated bank or any company to transfer any stock to which the order relates, or to pay any dividends thereon except in accordance with the order.

Court may  
make  
declaration

- (7) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock or chose in action, vested under this Act, is to be exercised.

(8) The provisions of this Act as to vesting orders apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock. R.S.O. 1970, c. 470, s. 13. Ships, shares in

#### TRUSTEES FOR CHARITIES

**14.** The Supreme Court may exercise the powers herein conferred for the purpose of vesting any land or personal estate in the trustee of any charity or society over which the court would have jurisdiction upon action duly instituted. R.S.O. 1970, c. 470, s. 14. Exercise of powers in favour of charities, etc.

**15.**—(1) Where land is held by trustees for a charitable purpose and it is made to appear that the land can be no longer advantageously used for such charitable purpose or that for any other reason the land ought to be sold, a judge of the Supreme Court may make an order authorizing the sale thereof and may give such directions in relation thereto and for securing the due investment and application of the money arising from the sale as may be considered proper. Power to order a sale in proper cases

(2) No such order shall be made unless notice of the application has been given to the Public Trustee. R.S.O. 1970, c. 470, s. 15. Notice to Public Trustee

#### WHO MAY APPLY

**16.**—(1) An order under this Act for the appointment of a new trustee, or concerning any land or personal estate, subject to a trust, may be made upon the application of any person beneficially interested therein, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof. Who may apply for appointment of new trustee, or vesting order, etc.

(2) An order concerning any land or personal estate, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by the mortgage. R.S.O. 1970, c. 470, s. 16. In case of mortgaged property

#### CERTAIN POWERS AND RIGHTS OF TRUSTEES

##### *Purchase and Sale*

**17.** Subject to the *Estates Administration Act*, where a trust for sale or a power of sale of land or personal estate is vested in a trustee he may sell or concur with any other person in selling all or Power and discretion of trustee for sale  
R.S.O. 1980, c 143



any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to resell, without being answerable for any loss. R.S.O. 1970, c. 470, s. 17.

Sales by trustees not impeachable on certain grounds

**18.**—(1) A sale made by a trustee shall not be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

Collusion between purchaser and trustee

(2) Such sale shall not, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for the sale was made. R.S.O. 1970, c. 470, s. 18.

#### *Dedication or Sale for Highway Purposes*

Dedication or sale of land by trustee for municipal highway

**19.** With the approval of the Ontario Municipal Board or of a judge of the Supreme Court, a person who holds land or a charge or claim against it or has control of the legal title, upon any trust or for a specified or particular purpose, may, to the extent of his estate or interest, dedicate or sell, or join in dedicating or selling, to the corporation of the municipality within which it is situate, any portion of the land required by the corporation for the work of establishing, extending, widening or diverting a street, and the Board or the judge may approve thereof if it appears that it will not have the effect of defeating or seriously affecting the substantial objects or intent of the trust or purpose but the approval is not necessary if such dedication or sale is otherwise within such person's powers. R.S.O. 1970, c. 470, s. 19.

#### *Agents*

Power to authorize receipt of money by solicitor

**20.**—(1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust.

By banker

(2) A trustee may appoint a manager or a branch manager of a chartered bank or a solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance or otherwise.

(3) A trustee shall not be charged with a breach of trust by reason only of his having made or concurred in making any such appointment. Appointment not a breach of trust

(4) Nothing in this section exempts a trustee from any liability that he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor to pay or transfer the same to the trustee. R.S.O. 1970, c. 470, s. 20. Liability of trustee, in certain cases, not affected

### *Insurance*

**21.**—(1) A trustee may insure against loss or damage by fire, tempest or other casualty, any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three-fourths of the value of such building or property, and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income. Power to insure buildings

(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so. R.S.O. 1970, c. 470, s. 21. Application

### *Renewals of Leases*

**22.**—(1) A trustee of any leaseholds for lives or years that are renewable from time to time may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same land on reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do all such other acts as are requisite; but where, by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section does not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee. Power of trustees of renewable leaseholds to renew

(2) If money is required to pay for the renewal the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially to raise money for the purpose

interested in the land to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of the land to be comprised in the renewed lease, or of any other land for the time being subject to the uses or trusts to which that land is subject, and no person advancing money upon a mortgage purporting to be made under this power is bound to see that the money is wanted, or that no more is raised than is wanted for the purpose or to see to the due application of the money. R.S.O. 1970, c. 470, s. 22.

### *Passing of Accounts*

When trustee may file accounts

**23.**—(1) A trustee desiring to pass the accounts of his dealings with the trust estate may file his accounts in the office of the surrogate court of a county or district in which he or a co-trustee is resident or in which any part of the trust estate is situate, and the proceedings and practice upon the passing of such accounts shall be the same and have the like effect as the passing of executors' or administrators' accounts in the surrogate court; but in the case of trustees under a will the accounts shall be filed and passed in the office of the surrogate court by which probate of the will was granted.

Fixing compensation of trustee

(2) Where the compensation payable to a trustee has not been fixed by the instrument creating the trust or otherwise, the judge of the surrogate court upon the passing of the accounts of the trustee has power to fix the amount of compensation payable to the trustee and the trustee is thereupon entitled to retain out of any moneys in his hands the amount so determined. R.S.O. 1970, c. 470, s. 23.

### *Receipts*

Receipts of trustees to be effectual discharges

**24.** The payment of any money to and the receipt thereof by any person to whom the same is payable upon any trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof. R.S.O. 1970, c. 470, s. 24.

### *Surviving Trustee*

Powers of two or more trustees

**25.** Where a power or trust is given to or vested in two or more trustees jointly it may be exercised or performed by the survivor or survivors of them for the time being. R.S.O. 1970, c. 470, s. 25.

## INVESTMENTS

**26.** A trustee may invest any trust money in his hands in the classes of securities mentioned in this section, but only if the investment is in other respects reasonable and proper,

- (a) bonds, debentures or other evidences of indebtedness, <sup>Authorized investments</sup>  
  - (i) of or guaranteed by the Government of Canada,
  - (ii) of or guaranteed by the government of any province of Canada,
  - (iii) of or guaranteed by the Government of the United Kingdom,
  - (iv) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Ontario, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectible by or through the municipality in which such property is situated;
- (b) first mortgages, charges or hypothecs upon real estate in Canada; <sup>mortgages on real estate</sup>
- (c) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity; <sup>Dominion subsidy bonds</sup>
- (d) debentures of any loan corporation that is registered under the *Loan and Trust Corporations Act*; <sup>loan company debentures</sup>  
R.S.O. 1980, c. 249
- (e) guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*; <sup>trust company guaranteed investments</sup>
- (f) bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development established by the Agree- <sup>Inter-national Bank for Reconstruction and Development</sup>



R.S.C. 1970,  
c. B-9

ment for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada or the United States of America;

chartered  
banks

(g) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

credit union  
term deposits  
R.S.O. 1980,  
c. 102

(h) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*.  
R.S.O. 1970, c. 470, s. 26; 1980, c. 6, s. 6 (1).

Other  
investments  
authorized

**27.—**(1) In addition to the investments authorized by section 26, a trustee holding trust money for investment may invest such moneys in the following classes of investments, but only if the investment is in other respects reasonable and proper and is made in accordance with subsections (2), (3) and (4).

bonds  
secured by  
trust deed

(a) bonds, debentures, debenture stock or other securities of any corporation incorporated by Canada, or by any province of Canada, or by any former province now forming part of Canada, that are secured by a mortgage or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such corporation or other assets of such corporation of the classes mentioned in this section or in section 26;

provincial  
subsidy  
bonds

(b) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity;

corporation  
securities

(c) bonds, debentures or other evidences of indebtedness of a corporation that has paid,

(i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

- (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

(d) preferred shares of a corporation that has paid, preferred  
shares

- (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
- (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

(e) fully paid common shares of a corporation that, in common  
shares each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid.

(2) No investment shall be made under this section that, at Limitation the time of making such investment, would cause the aggregate market value of the investments made under this section to exceed 35 per cent of the market value at that time of the whole trust estate, and, if in any estate or trust the trustee has retained, under the authority of the trust instrument, investments that had been acquired by the testator or settlor and that come within any of the classes authorized by this section, such investments shall be deemed to have been made under this section.

(3) No sale or other liquidation of any investment made Change in  
market  
values under this section shall be required solely because of any change in the ratio between the market value of such investments and the market value of the whole trust estate.

(4) In determining market values for the purpose of this Market  
values section, a trustee may rely upon published market quotations as to those investments for which such quotations are available, and upon such valuations of other investments as in

his judgment seem fair and reasonable according to available information. R.S.O. 1970, c. 470, s. 27.

Power to  
deposit  
trust  
money

R.S.O. 1980,  
cc. 249, 102

**28.** A trustee may, pending the investment of any trust money, deposit it during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*, or in any credit union as defined in the *Credit Unions and Caisses Populaires Act*. R.S.O. 1970, c. 470, s. 28; 1980, c. 6, s. 6 (2).

Power to  
vary or  
transpose  
securities

**29.** A trustee may from time to time vary or transpose any securities in which money in his hands is invested, whether under the authority of this Act or otherwise, into or for any other securities of any nature authorized by this Act. R.S.O. 1970, c. 470, s. 29.

When trustee  
not charge-  
able for  
lending on  
insufficient  
security

**30.**—(1) A trustee lending money upon the security of any property upon which he may lawfully lend is not chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed three-fourths of the value of the property as stated in the report and that it was made under the advice of the valuator expressed in the report.

on N.H.A.  
mortgages

R.S.C. 1970,  
c. N-10

(2) Notwithstanding subsection (1), a trustee lending money on a mortgage security, if the loan is an insured loan under the *National Housing Act* (Canada), is not chargeable with breach of trust by reason only that the amount of the loan exceeds three-fourths of the value of the property mortgaged. R.S.O. 1970, c. 470, s. 30.

Trustee  
lending  
more than  
authorized  
amount

**31.** Where a trustee has improperly advanced money on a mortgage security which would, at the time of the investment, have been a proper investment in all respects for a less sum than was actually advanced the security shall be deemed an authorized investment for such less sum, and the trustee is only liable to make good the sum advanced in excess thereof with interest. R.S.O. 1970, c. 470, s. 31.

Liability in  
case of  
change of  
character of  
investment

**32.** A trustee is not chargeable with breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law. R.S.O. 1970, c. 470, s. 32.

## PROTECTION AND INDEMNITY

**33.** A trustee is chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and is answerable and accountable only for his own acts, receipts, neglects or defaults, and not for those of any other trustee, nor for any banker, broker or other person with whom any trust money or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default, and may reimburse himself or pay or discharge out of the trust property all expenses incurred in or about the execution of his trust or powers. R.S.O. 1970, c. 470, s. 33.

Extent of  
liability of  
trustees

**34.—**(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

Trustees  
committing  
breach of  
trust at  
instigation  
of bene-  
ficiary

(2) This section applies notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation. R.S.O. 1970, c. 470, s. 34.

Application  
to separate  
estate of  
married  
women

## TECHNICAL BREACHES OF TRUST

**35.** If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach of trust whenever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed the breach, the court may relieve the trustee either wholly or partly from personal liability for the same. R.S.O. 1970, c. 470, s. 35.

Relief of  
trustees  
committing  
technical  
breach of  
trust

## PAYMENT INTO COURT

**36.—**(1) Where any money belonging to a trust is in the hands or under the control of or is vested in a sole trustee or several trustees and it is the desire of the trustee, or of the majority of the trustees, to pay the money into court, the Supreme Court may order the payment into court to be made by the sole trustee, or by the majority of the trustees, without the concurrence of the other or others if the concurrence cannot be obtained.

Payment  
into court by  
trustees of  
trust funds  
or securities  
by order of  
court



Payment or  
delivery to  
Accountant  
of court

(2) Where any such money is deposited with a banker or broker or other depository the court may order payment thereof to the Accountant of the Supreme Court, and payment made in pursuance of such order is valid and takes effect as if it had been made on the authority or by the act of all the persons entitled to the money paid.

Payment  
into court by  
persons  
holding trust  
moneys for  
trustee

(3) Where the trustee has been absent from Ontario for a year and is not likely to return at an early date, or in the event of the trustee's death, or where the trustee in Ontario cannot give an acquittance of the money, any person with whom trust money has been deposited or to whose hands trust money has come may make an application similar to that authorized by subsection (1).

Money found  
to be due  
minor, etc.,  
on final  
passing of  
accounts in  
surrogate  
court to be  
paid into  
court

(4) Where, on the passing of the final accounts of a personal representative, guardian or trustee by the judge of a surrogate court, there is found to be in the hands of such personal representative, guardian or trustee any money belonging to a minor or to a mentally incompetent person or person of unsound mind, or to a person whose address is unknown, it is the duty of such personal representative, guardian or trustee to pay the money into the Supreme Court to the credit of the person who is entitled to it.

Accountant  
to be  
furnished  
with copy of  
order, etc.

(5) A certified copy of the order or report of the judge shall be left with the Accountant when the money is paid in, and the person paying it in is entitled to deduct \$5 for his costs. R.S.O. 1970, c. 470, s. 36 (1-5).

Moneys  
to which  
minor or  
mentally  
incompetent  
person  
entitled

(6) Where a minor, mentally incompetent person or person of unsound mind is entitled to any money, the person by whom the money is payable, upon delivering to the Official Guardian and to the Accountant of the Supreme Court affidavits setting out,

- (a) the facts entitling the person to the money;
- (b) the date of the birth of the person entitled to the money if the person is a minor;
- (c) the full name and the full postal address of the person entitled to the money; and
- (d) the name and the full postal address of the person with whom the person entitled to the money resides,

may pay the money into the Supreme Court to the credit of the minor, mentally incompetent person or person of unsound mind and this is a sufficient discharge for the money so paid into court. 1971, c. 32, s. 1.

(7) Where a trustee desires to be relieved from his trust <sup>Transfer of trust</sup> the court may order all securities held for the trust to be transferred to the Public Trustee.

(8) Money paid into court is subject to the order of the <sup>Disposition</sup> court.

(9) Where, however, the person to whom money is due, as <sup>Patient in mental hospital</sup> mentioned in subsections (4) and (6), is a patient in a hospital for mentally ill, mentally defective or epileptic persons and the Public Trustee is committee of his estate, the money due shall be paid over to the Public Trustee. R.S.O. 1970, c. 470, s. 36 (7-9).

#### PERSONAL REPRESENTATIVES AND DEVISEES IN TRUST

##### *Removal of Personal Representatives*

**37.**—(1) The Supreme Court may remove a personal rep- <sup>Power of court to re-remove</sup> resentative upon any ground upon which the court may re-move any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed.

(2) Every person so appointed shall, unless the court other- <sup>Security by person appointed</sup> wise orders, give such security as he would be required to give if letters of administration were granted to him under the *Surrogate Courts Act*.  
R.S.O. 1980, c. 491

(3) The order may be made upon the application of any <sup>Who may apply</sup> executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased.

(4) Subject to any rules of court, the practice in force for <sup>Procedure</sup> the removal of any other trustee shall be applicable to proceedings to be taken in the Supreme Court under this section.

(5) Where the executor or administrator removed is not a <sup>When new appointment unnecessary</sup> sole executor or administrator the court need not, unless it sees fit, appoint any person to act in the place of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed passes to the remaining executor or administrator as if the person so removed had died.

(6) The executor of any person appointed an executor <sup>Chain of representation</sup> under this section shall not by virtue of such executorship be an executor of the estate of which his testator was ap-

pointed executor under this section, whether such person acted alone or was the last survivor of several executors.

Copy of  
order to be  
filed with  
Registrar

(7) A certified copy of the order of removal shall be filed with the Registrar of the Supreme Court, and another copy with the registrar of the surrogate court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers of their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where the grant is indexed.

Endorse-  
ment

(8) The date of the grant shall be endorsed on the copy of the order filed with the Registrar of the Supreme Court.

Jurisdiction  
of surrogate  
court

(9) Where the estate is less than \$1,000, the jurisdiction conferred by this section may be exercised by the surrogate court. R.S.O. 1970, c. 470, s. 37.

#### RIGHTS AND LIABILITIES OF PERSONAL REPRESENTATIVES

Actions by  
executors  
and  
adminis-  
trators for  
torts

**38.**—(1) Except in cases of libel and slander, the executor or administrator of any deceased person may maintain an action for all torts or injuries to the person or to the property of the deceased in the same manner and with the same rights and remedies as the deceased would, if living, have been entitled to do, and the damages when recovered shall form part of the personal estate of the deceased; but if death results from such injuries no damages shall be allowed for the death or for the loss of the expectation of life, but this proviso is not in derogation of any rights conferred by Part V of the *Family Law Reform Act*.

R.S.O. 1980,  
c. 152

Actions  
against  
executors  
and adminis-  
trators for  
torts

(2) Except in cases of libel and slander, if a deceased person committed or is by law liable for a wrong to another in respect of his person or property, the person wronged may maintain an action against the executor or administrator of the person who committed or is by law liable for the wrong. R.S.O. 1970, c. 470, s. 38 (1, 2).

Continuance  
of actions  
commenced  
against  
deceased  
persons

(3) Where a writ is issued naming as a defendant a person who was deceased at the time of the issue of the writ, a judge of the court out of which the writ was issued may, on such notice as he considers proper and on being satisfied that the writ was issued in good faith against the deceased person without knowledge of his death, make an order validating the writ as if that person had been alive at the time the writ was issued and died immediately thereafter.

(4) Upon making an order under subsection (3), the judge <sup>Terms of order</sup> may impose,

- (a) a term that an executor or administrator shall not be personally liable in respect of any part of the estate of the deceased person that he has distributed or otherwise dealt with in good faith while not aware that a writ naming the deceased had been issued; and
- (b) such other terms and conditions as in the circumstances of the action seem just. 1971, c. 32, s. 2.

(5) Where a person wronged is unable to maintain an action under subsection (2) because neither letters probate of the will of the deceased person nor letters of administration of the deceased person's estate have been granted within six months after the death, a judge of the court having jurisdiction to entertain the action may, on the application of the person wronged and on such notice as he considers proper, appoint an administrator *ad litem* of the estate of the deceased person, whereupon,

- (a) the administrator *ad litem* shall be deemed to be an administrator against whom an action may be brought under subsection (2); and
- (b) any judgment in favour of or against the administrator *ad litem* in any such action has the same effect as a judgment in favour of or against, as the case may be, the deceased person, but it has no effect whatsoever for or against the administrator *ad litem* in his personal capacity. R.S.O. 1970, c. 470, s. 38 (3); 1973, c. 15, s. 1 (1).

(6) A judge of the court having jurisdiction to entertain an action under subsection (2) may make an appointment under subsection (5) before the period of six months referred to therein has expired if he is of the opinion that the right of action of the person wronged might otherwise be prejudiced. 1973, c. 15, s. 1 (2).

(7) An action under this section shall not be brought after the expiration of two years from the death of the deceased. R.S.O. 1970, c. 470, s. 38 (5); 1975, c. 39, s. 1.

**39.** A personal representative has an action of account as the testator or intestate might have had if he had lived. R.S.O. 1970, c. 470, s. 39.



Powers of  
executor to  
whom  
probate  
granted

**40.** An administrator with the will annexed or an executor to whom probate is granted has all the power conferred by the testator upon the executor named in his will and may in all respects act as effectually as though he alone had been named by the testator as his sole executor. R.S.O. 1970, c. 470, s. 40.

### *Execution of Powers*

Power of  
executor to  
convey land

**41.** Where there is in a will a direction, express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any land, and no person is by the will or otherwise by the testator appointed to execute and carry the same into effect the executor, if any, named in the will may execute and carry into effect every such direction in respect of such land and any estate or interest therein in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1970, c. 470, s. 41.

Power of  
administrator  
with will  
annexed to  
convey land

**42.** Where from any cause a court of competent jurisdiction has committed to a person, who has given security to the satisfaction of such court for his dealing with such land and its proceeds, letters of administration with a will annexed which contains an express or implied power to sell, dispose of, appoint, mortgage, encumber or lease any land, whether such power is conferred on an executor named in the will or the testator has not by the will or otherwise appointed a person to execute it, the administrator may exercise the power in respect of such land in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1970, c. 470, s. 42.

### *Land Contracts of Deceased*

Conveyance  
by personal  
representative  
in pursuance  
of a contract  
by deceased

**43.** Where a person has entered into a contract in writing for the sale and conveyance of land and has died intestate or without providing by will for the conveyance of such land to the person entitled or to become entitled to such conveyance, and where the deceased would be bound, were he alive, to execute a conveyance, his personal representative shall make and give to the person entitled to the same a good and sufficient conveyance of such land, of such nature as the deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor, and the conveyance is as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but does not have any further validity or effect. R.S.O. 1970, c. 470, s. 43.

*Devises in Trust*

**44.**—(1) Where by any will coming into operation after the 18th day of September, 1865, a testator charges his land, or any specific part thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the land so charged to his executors or to a trustee without any express provision for the raising of such debt, legacy or sum of money out of such land, the devisee may raise such debt, legacy or money by a sale of such land or any part thereof, or by a mortgage of the same.

Power to  
raise money  
by sale or  
mortgage  
to satisfy  
charges

(2) Purchasers or mortgagees are not bound to inquire whether the powers conferred by this section, or any of them, have been duly and correctly exercised by the person acting in virtue thereof. R.S.O. 1970, c. 470, s. 44.

Purchaser's  
position

**45.** Every personal representative, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, is subject to all the liabilities, and compellable to discharge all the duties which, as respects the acts to be done by him under such powers, would have been imposed upon a person appointed by the testator, or would have been imposed by law upon any person appointed by law, or by any court of competent jurisdiction to execute such power. R.S.O. 1970, c. 470, s. 45.

Duties and  
liabilities of  
an executor  
and adminis-  
trator acting  
under the  
powers in  
this Act

**46.**—(1) Where there are several personal representatives and one or more of them dies, the powers conferred upon them shall vest in the survivor or survivors, unless there is some provision to the contrary in the will.

Survivor-  
ship

(2) Until the appointment of new personal representatives, the personal representatives or representative for the time being of a sole personal representative, or, where there were two or more personal representatives, of the last surviving or continuing personal representative, may exercise or perform any power or trust that was given to, or capable of being exercised by the sole or last surviving personal representative. R.S.O. 1970, c. 470, s. 46.

Idem

## EFFECT OF REVOCATION OF AN ERRONEOUS GRANT

**47.**—(1) Where a court of competent jurisdiction has admitted a will to probate, or has appointed an administrator, notwithstanding that the grant of probate or the appointment may be subsequently revoked as having been erroneously made, all acts done under the authority of the probate

Validity  
of acts done  
prior to  
revocation of  
erroneous  
grant

or appointment, including all payments made in good faith to or by the personal representative, are as valid and effectual as if the same had been rightly granted or made; but upon revocation of the probate or appointment, in cases of an erroneous presumption of death, the supposed decedent, and in other cases the new personal representative may, subject to subsections (2) and (3), recover from the person who acted under the revoked grant or appointment any part of the estate remaining in his hands undistributed and, subject to the *Limitations Act*, from any person who erroneously received any part of the estate as a devisee, legatee or one of the next of kin, or as a husband or wife of the decedent or supposed decedent, the part so received or the value thereof.

R.S.O. 1980,  
c. 240

Expenses

(2) The person acting under the revoked probate or appointment may retain out of any part of the estate remaining in his hands undistributed his proper costs and expenses incurred in the administration.

Fraud

(3) Nothing in this section protects any person acting as personal representative where he has been party or privy to any fraud whereby the grant or appointment has been obtained, or after he has become aware of any fact by reason of which revocation thereof is ordered unless, in the latter case, he acts in pursuance of a contract for valuable consideration and otherwise binding made before he became aware of such fact. R.S.O. 1970, c. 470, s. 47.

ADMINISTRATION OF ESTATES

Power, to  
pay debts

**48.**—(1) A personal representative may pay or allow any debt or claim on any evidence that he thinks sufficient.

to com-  
pound, etc.

(2) A personal representative, or two or more trustees acting together, or a sole acting trustee, where, by the instrument, if any, creating the trust, a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment for any debt, and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing done by him or them in good faith. R.S.O. 1970, c. 470, s. 48.

**49.**—(1) Unless a contrary intention appears from the will, Application of income of estate of deceased person

- (a) the personal representative of a deceased person, in paying the debts, funeral and testamentary expenses, estate, legacy, succession and inheritance taxes or duties, legacies, or other similar disbursements, shall not apply or be deemed to have applied any income of the estate in or towards the payment of any part of the capital of any such disbursements or of any part of the interest, if any, due thereon at the date of death of such person;
- (b) until the payment of the debts, funeral and testamentary expenses, estate, legacy, succession and inheritance taxes or duties, legacies, or other similar disbursements mentioned in clause (a), the income from the property required for the payment thereof, with the exception of any part of such income applied in the payment of any interest accruing due thereon after the date of death of the deceased, shall be treated and applied as income of the residuary estate,

but, in any case where the assets of the estate are not sufficient to pay the aforesaid disbursements in full, the income shall be applied in making up such deficiency.

(2) Subsection (1) shall be deemed always to have been part Idem of the law of Ontario.

(3) Notwithstanding subsections (1) and (2), in any case in which the personal representative has before the coming into force of this section, being the 30th day of May, 1961, applied any rule of law or of administration different from the provisions of subsection (1), such application is valid and effective. Part application of other rules validated R.S.O. 1970, c. 470, s. 49.

**50.**—(1) On the administration of the estate of a deceased person, in the case of a deficiency of assets, debts due to the Crown and to the personal representative of the deceased person, and debts to others, including therein debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein prejudices any lien existing during the lifetime of the debtor on any of his property. In case of deficiency of assets, debts to rank pari passu



Overpay-  
ment to  
creditor

(2) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection (1), the overpayment does not entitle any other creditor or claimant to recover more than the amount to which he would be entitled if the overpayment had not been made.

Relief from  
personal  
liability

(3) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection (1), the court may relieve the personal representative either wholly or partly from personal liability if it is satisfied that he has acted honestly and reasonably and for the protection or conservation of the assets of the estate. R.S.O. 1970, c. 470, s. 50.

As to liability  
of executor  
or adminis-  
trator in  
respect of  
covenants,  
etc., in  
leases

**51.**—(1) Where a personal representative, liable as such to the rents, or upon the covenants or agreements contained in a lease or agreement for a lease granted or assigned to the testator or intestate, has satisfied all liabilities under the lease or agreement for a lease, which accrued due and were claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for lease, to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the parties entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any future liability under the lease or agreement for lease.

No personal  
liability for  
subsequent  
claim

(2) The personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the lease or agreement for lease.

Right to  
follow assets  
not affected

(3) Nothing in this section prejudices the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1970, c. 470, s. 51.

As to liability  
of personal  
representa-  
tive in  
respect of  
rents, etc., in  
conveyances  
on rent-  
charge, etc.

**52.**—(1) Where a personal representative, liable as such to the rent or upon the covenants or agreements contained in any conveyance on chief rent or rent-charge, whether any such rent is by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate, has satisfied all liabilities under the conveyance, or agree-

ment for a conveyance, which accrued due and were claimed up to the time of the conveyance by him herein-after mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned such agreement for conveyance to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the persons entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any further liability under the conveyance or agreement for conveyance.

(2) A personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the conveyance or agreement for conveyance. No personal liability for any subsequent claim

(3) Nothing in this section prejudices the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. Right of grantor, etc., to follow assets not affected R.S.O. 1970, c. 470, s. 52.

**53.**—(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or of a particular class or classes of creditors, where the creditors are not designated by name therein, or a personal representative has given such or the like notices as, in the opinion of the court in which such trustee, assignee, or personal representative is sought to be charged, would have been directed to be given by the Supreme Court in an action for the execution of the trusts of such deed or assignment, or in an administration suit, for creditors and others to send in to such trustee, assignee, or personal representative, their claims against the person for the benefit of whose creditors such deed or assignment is made, or against the estate of the testator or intestate, as the case may be, at the expiration of the time named in the notices, or the last of the notices, for sending in such claims, he may distribute the proceeds of the trust estate, or the assets of the testator or intestate, as the case may be, or any part thereof among the persons entitled thereto, having regard to the claims of which he has then notice, and is not liable for the proceeds of the trust estate, or assets, or any part thereof so distributed to any person of whose claim he had not notice at the time of the distribution. Distribution of assets under trust deeds for benefit of creditors, or of the assets of intestate

Right of  
creditor to  
follow assets  
not affected

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate, or assets, or any part thereof into the hands of persons who have received the same.

Subs. (1)  
not to apply  
to heirs, etc.

(3) Subsection (1) does not apply to heirs, next of kin, devisees or legatees claiming as such. R.S.O. 1970, c. 470, s. 53.

Exercise of  
general  
power by  
will,  
effect of

**54.** Property over which a deceased person had a general power of appointment, which he might have exercised for his own benefit without the assent of any other person, shall be assets for the payment of his debts where the same is appointed by his will, and, under an execution against the personal representatives of such deceased person, such assets may be seized and sold after the deceased person's own property has been exhausted. R.S.O. 1970, c. 470, s. 54.

Rights and  
liabilities of  
executors of  
executors

**55.** Executors of executors have the same actions for the debts and property of the first testator as he would have had if in life, and are answerable for such of the debts and property of the first testator as they recover as the first executors would be if they had recovered the same. R.S.O. 1970, c. 470, s. 56.

Liability of  
personal  
representa-  
tive of  
one who  
commits  
waste

**56.** The personal representative of any person who, as executor or as executor of his own wrong, or as administrator, wastes or converts to his own use any part of the estate of any deceased person is liable and chargeable in the same manner as his testator or intestate would have been if he had been living. R.S.O. 1970, c. 470, s. 57.

Deficiency  
of assets

**57.—(1)** On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor holding security on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, shall place a value on such security and the creditor shall rank upon the distribution of assets only upon the unsecured portion of his claim after deducting the value of the security, unless the personal representative elects to take over the security as hereinafter provided.

Where  
personal  
representa-  
tive requires  
creditor to  
prove claim

(2) Where the personal representative of a deceased person is of the opinion that there may be a deficiency of assets,

he may require any creditor to prove his claim and to state whether he holds any security for his claim or any part thereof, and to give full particulars of the same and if such security is on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, to place a specified value on such security and the personal representative may either consent to the creditor ranking for the amount of his claim after deducting such valuation or may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the personal representative has realized upon such security or is in a position to make payment out of the assets of the estate and in either case the difference between the value at which the security is retained or taken, as the case may be, and the amount of the claim of the creditor, shall be the amount for which he ranks upon the estate of the deceased debtor.

(3) Where inspectors have been appointed as hereinafter provided or where the estate is being administered under the direction of or by a court, the personal representative in making his election shall act under the direction of the inspectors or of the court, as the case may be, and the remuneration of the inspectors shall be determined by the surrogate court judge on the passing of accounts.

Inspectors,  
directing of;  
remunera-  
tion of

(4) If the claim of the creditor is based upon a negotiable instrument upon which the estate of the deceased debtor is only indirectly or secondarily liable and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend and revalue his claim. R.S.O. 1970, c. 470, s. 58.

Where claim  
based on  
negotiable  
instruments

**58.**—(1) Where a creditor fails to value any security held by him which under this Act he is called upon to value, the personal representative may apply in a summary way to the judge of the surrogate court from which probate or letters of administration were issued for an order that unless a specified value is placed on such security and notified in writing to the personal representative, within a time to be limited by the order, such claimant, in respect of the claim or the part thereof for which security is held, is wholly barred of any right to share in the proceeds of the estate unless the judge upon the application of the creditor extends the time for the valuation of the security.

When  
creditor  
holding  
security  
fails to  
value same



Administra-  
tion under  
direction of  
a court

(2) Where an estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by this section upon the judge of the surrogate court. R.S.O. 1970, c. 470, s. 59.

Calling  
meeting of  
creditors  
where there  
is a  
deficiency  
of assets

**59.**—(1) Where in the administration of the estate of a deceased person the personal representative fears that there may be a deficiency of assets or that all the creditors will not be paid in full, the personal representative may call a meeting of creditors and lay before them the situation of the estate and at such meeting inspectors may be appointed by the creditors to assist the personal representative in the administration of the estate and to advise him with respect thereto.

Creditors'  
request for  
meeting

(2) In any such case the personal representative shall call a meeting of creditors for the purpose aforesaid at the request in writing of creditors holding 10 per cent of the amount of claims filed against the estate.

Appoint-  
ment of  
creditor  
as an  
inspector

(3) In cases where no meeting of creditors has been held, the personal representative may appoint a creditor or creditors as inspector or inspectors to assist him in the realizing and management of the estate but in such case the appointment shall be approved by the surrogate judge before the inspectors accept office. R.S.O. 1970, c. 470, s. 60.

#### APPLICATIONS TO COURT FOR ADVICE

Trustee,  
etc., may  
apply for  
advice in  
management  
of trust  
property

**60.**—(1) A trustee, guardian or personal representative may, without the institution of an action, apply to the Supreme Court for the opinion, advice or direction of the court on any question respecting the management or administration of the trust property or the assets of his ward or his testator or intestate.

Indemnity  
of trustee,  
etc., acting  
as advised

(2) The trustee, guardian or personal representative acting upon the opinion, advice or direction given shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, guardian or personal representative, in the subject-matter of the application, unless he has been guilty of some fraud, wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R.S.O. 1970, c. 470, s. 61.

#### ALLOWANCE TO TRUSTEES AND PERSONAL REPRESENTATIVES

Allowance to  
trustees, etc.

**61.**—(1) A trustee, guardian or personal representative is entitled to such fair and reasonable allowance for his care,

pains and trouble, and his time expended in and about the estate, as may be allowed by a judge of the Supreme Court or by any master or referee to whom the matter may be referred.

(2) The amount of such compensation may be settled although the estate is not before the court in an action.

Though estate not before the court

(3) The judge of a surrogate court, in passing the accounts of a trustee or of a personal representative or guardian, may from time to time allow to him a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the estate.

Allowance to personal representative for services

(4) Where a barrister or solicitor is a trustee, guardian or personal representative, and has rendered necessary professional services to the estate, regard may be had in making the allowance to such circumstance, and the allowance shall be increased by such amount as may be considered fair and reasonable in respect of such services.

Allowance to barrister or solicitor trustee for professional services

(5) Nothing in this section applies where the allowance is fixed by the instrument creating the trust. R.S.O. 1970, c. 470, s. 62.

Where allowance fixed by the instrument

#### MISCELLANEOUS

**62.** A trustee who is either a vendor or a purchaser may sell or buy without excluding the application of section 1 of the *Vendors and Purchasers Act*. R.S.O. 1970, c. 470, s. 63.

Trustees buying or selling  
R.S.O. 1980, c. 520

**63.** This Act or an order purporting to be made under it is a complete indemnity to all persons for any acts done under the Act or order, as the case may be. R.S.O. 1970, c. 470, s. 64.

Indemnity

**64.** The Supreme Court may order the costs of and incidental to any application, order, direction, conveyance, assignment or transfer under this Act, or any part thereof, to be paid or raised out of the property in respect of which the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as the court considers proper. R.S.O. 1970, c. 470, s. 65.

Costs may be ordered to be paid out of estate

**65.** Where in the administration of any trust, estate or fund any question relating to the disposition, transmission or devolution of any property arises, including the right of any person to terminate a trust or an accumulation directed under a trust or other disposition, and it becomes relevant to

Application of  
R.S.O. 1980, c. 374

inquire whether any person is or at a relevant date was or will be capable of procreating or giving birth to a child, section 7 of the *Perpetuities Act* applies to any such question as it applies to questions concerning the rule against perpetuities. R.S.O. 1970, c. 470, s. 66.

Application  
of Act

**66.** Subject to section 67, unless otherwise expressed therein, this Act applies to all trusts whenever created and to all trustees whenever appointed. R.S.O. 1970, c. 470, s. 67.

Additional  
powers

**67.** The powers, rights and immunities conferred by this Act are in addition to those conferred by the instrument creating the trust, and have effect subject to the terms thereof. R.S.O. 1970, c. 470, s. 68.

Express  
terms of  
trust  
instrument  
to prevail

**68.** Nothing in this Act authorizes a trustee to do anything that he is in express terms forbidden to do, or to omit to do anything that he is in express terms directed to do by the instrument creating the trust. R.S.O. 1970, c. 470, s. 69.

## CHAPTER 513

## Unclaimed Articles Act

## 1. This Act applies in the case of,

Application  
of Act

## (a) any article of clothing or household goods,

- (i) that is deposited with a person for cleaning, pressing, dyeing, glazing, washing or repairing, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than six months,

in respect of which the agreed or reasonable charges for the services mentioned in subclause (i) are unpaid;

## (b) any article of clothing or household goods,

- (i) that is deposited with a person for storage, whether or not it is also deposited for cleaning, pressing, dyeing, glazing, washing or repairing, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than two years,

in respect of which the agreed or reasonable charges for storage are unpaid for any period of not less than twelve months; and

## (c) any article,

- (i) that is deposited with a jeweller or watchmaker for repair or other treatment, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than one year,

in respect of which the agreed or reasonable charges for the services rendered are unpaid. R.S.O. 1970, c. 471, s. 1.



Notice of  
intended  
disposal

**2.**—(1) Upon the expiration of the period mentioned in subclause 1 (a) (ii) or subclause 1 (b) (ii) or subclause 1 (c) (ii), as the case may be, the person with whom an article is deposited may cause a notice to be served by registered mail upon the owner of the article or the person who deposited the article addressed to him at his last known address stating,

- (a) the amount of the agreed or reasonable charges in respect of the article; and
- (b) that, if such charges are not paid within thirty days of the date of the service of the notice, the article will be disposed of.

Notice may  
cover more  
than one  
article

(2) Any notice under this section may be in respect of more than one article belonging to or deposited by the same person. R.S.O. 1970, c. 471, s. 2.

Where  
notice  
cannot be  
given

**3.** Where the whereabouts of the owner of and the person depositing an article cannot be ascertained and after all reasonable inquiries it is found that section 2 cannot be complied with, the person with whom an article is deposited may, without effecting service of notice as required by section 2, dispose thereof in the manner prescribed by section 4. R.S.O. 1970, c. 471, s. 3.

Disposal of  
articles

**4.**—(1) Upon the expiration of the thirty-day period mentioned in subsection 2 (1), the person with whom the article is deposited may dispose of it,

- (a) by giving it to a charitable organization or by giving it to any organization in order that it may be used for charitable purposes; or
- (b) in the case of an article,
  - (i) that has been declared by the owner or person depositing it to have a value of not more than \$100, or
  - (ii) in the absence of such a declaration, having a reasonable market value of not more than \$100,

by selling it.

Record of  
articles  
disposed of

(2) Every person who disposes of articles under this section shall maintain a record of the articles disposed of and the persons or organizations to whom they are disposed.

(3) Where an article is sold under subsection (1), the person selling it shall apply the proceeds of the sale in payment of his charges and shall upon application pay over the surplus to the person entitled thereto. R.S.O. 1970, c. 471, s. 4.

5. Where an article has been disposed of under this Act, *prima facie* evidence of compliance with this Act or of the existence of any fact or the doing of any act may be given in any court by the affidavit of a person having actual knowledge thereof. R.S.O. 1970, c. 471, s. 5.

6. Where an article has been disposed of under this Act, the person who disposed of it shall thereby relinquish all claims against the owner or person depositing it for unpaid charges for services upon or storage of the article. R.S.O. 1970, c. 471, s. 6.

7. This Act does not affect the right of any person to proceed in the manner prescribed by the *Warehousemen's Lien Act* or by the *Mechanics' Lien Act*. R.S.O. 1970, c. 471, s. 7.

Application  
of proceeds

Proof of  
facts

Relinquish  
claims for  
charges

Exceptions  
R.S.O. 1980,  
cc. 529, 261



## CHAPTER 514

### Unconscionable Transactions Relief Act

**1.** In this Act,

Interpre-  
tation

- (a) “cost of the loan” means the whole cost to the debtor of money lent and includes interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges, but not actual lawful and necessary disbursements made to a land registrar, a clerk of a county or district court, a sheriff or a treasurer of a municipality;
- (b) “court” means a court having jurisdiction in an action for the recovery of a debt or money demand to the amount claimed by a creditor in respect of money lent;
- (c) “creditor” includes the person advancing money lent and the assignee of any claim arising or security given in respect of money lent;
- (d) “debtor” means a person to whom or on whose account money lent is advanced and includes every surety and endorser or other person liable for the repayment of money lent or upon any agreement or collateral or other security given in respect thereof;
- (e) “money lent” includes money advanced on account of any person in any transaction that, whatever its form may be, is substantially one of money-lending or securing the repayment of money so advanced and includes and has always included a mortgage within the meaning of the *Mortgages Act*. R.S.O. 1980, c. 296, s. 1.

**2.** Where, in respect of money lent, the court finds that, having regard to the risk and to all the circumstances, the cost of the loan is excessive and that the transaction is harsh and unconscionable, the court may,

The court  
may,

- (a) reopen the transaction and take an account between the creditor and the debtor;

reopen  
transaction  
and take  
account



reopen  
former settle-  
ments

- (b) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken and relieve the debtor from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;

order  
repayment  
of excess

- (c) order the creditor to repay any such excess if the same has been paid or allowed on account by the debtor;

set aside  
or revise  
contract

- (d) set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if the creditor has parted with the security, order him to indemnify the debtor.  
R.S.O. 1970, c. 472, s. 2.

Exercise of  
powers of  
court,

**3.** The powers conferred by section 2 may be exercised,

in action by  
creditor

- (a) in an action or proceeding by a creditor for the recovery of money lent;

in action by  
debtor

- (b) in an action or proceeding by the debtor notwithstanding any provision or agreement to the contrary, and notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived;

in other  
proceedings

- (c) in an action or proceeding in which the amount due or to become due in respect of money lent is in question. R.S.O. 1970, c. 472, s. 3.

Relief by  
way of  
originating  
notice in  
county court

**4.—**(1) In addition to any right that a debtor may have under this or any other Act or otherwise in respect of money lent, he may apply for relief under this Act to a judge of the county or district court of the county or district in which he resides, and the judge on the application may exercise any of the powers of the court under section 2.

Removal of  
proceedings  
into  
Supreme  
Court

(2) Where an application is made under subsection (1), the judge may, if he sees fit, at any time before disposing of the application, by order remove the proceedings into the Supreme Court.

Idem

(3) Where an order is made under subsection (2), the clerk of the county or district court shall forthwith transmit the papers in the case to the proper office of the Supreme Court in the county or district in which the application was made.

(4) When the papers have been received in the proper office <sup>Idem</sup> of the Supreme Court, the application is *ipso facto* removed into the Supreme Court and shall be heard and determined by a judge of the Supreme Court, and the judge on the application may exercise any of the powers of the court under section 2 or he may direct an issue.

(5) An appeal lies to the Court of Appeal from any order made <sup>Appeal</sup> under subsection (1) or (4). R.S.O. 1970, c. 472, s. 4.

**5.** Nothing in this Act affects the rights of a *bona fide* <sup>Saving</sup> assignee or holder for value without notice, or derogates from <sup>*bona fide*</sup> the existing powers or jurisdiction of any court. <sup>holder for value, and existing jurisdiction</sup> R.S.O. 1970, c. 472, s. 5.



## CHAPTER 515

## Unified Family Court Act

## 1. In this Act,

Interpre-  
tation

- (a) "county court" includes a district court;
- (b) "Court" means the Unified Family Court;
- (c) "Judge" means a judge who may preside over the Court;
- (d) "judicial district" means the Judicial District of Hamilton-Wentworth. 1976, c. 85, s. 1.

2. There shall be a court of record in and for the Judicial District of Hamilton-Wentworth called the "Unified Family Court". 1976, c. 85, s. 2.

Court  
established

3.—(1) The Unified Family Court shall be presided over by a judge of a county court who is a local judge of the Supreme Court and a judge of a surrogate court and who is authorized under subsection (2) to exercise the jurisdiction of a judge of a provincial court (family division). 1976, c. 85, s. 3 (1); 1977, c. 4, s. 1 (1).

Presiding  
judges

(2) The Lieutenant Governor in Council may authorize a judge of a county court who is a local judge of the Supreme Court and a judge of a surrogate court to exercise the jurisdiction of a judge of a provincial court (family division). 1976, c. 85, s. 3 (2); 1977, c. 4, s. 1 (2).

Authority  
for family  
court  
matters

(3) All the jurisdiction of the Supreme Court or a judge thereof set out in the Schedule, other than by way of appeal, may be exercised by a local judge of the Supreme Court who is a Judge who may preside over the Unified Family Court. 1976, c. 85, s. 3 (3); 1977, c. 4, s. 1 (3).

Jurisdiction  
of local  
judge of  
Supreme  
Court

(4) A Judge shall exercise his jurisdiction as a local judge of the Supreme Court, a judge of a county court, a judge of a provincial court (family division) or a judge of a surrogate court in the matters in which the Supreme Court, a county court, a provincial court (family division) or a surrogate court or a judge thereof has jurisdiction set out in the Schedule. 1976, c. 85, s. 3 (4); 1977, c. 4, s. 1 (4, 5).

Exercise of  
existing  
jurisdiction



*Ex officio*  
justice of  
the peace

(5) A Judge is *ex officio* a justice of the peace. 1976, c. 85, s. 3 (5).

Amendment  
by  
proclamation

(6) The words underlined in subsections (1), (2) and (4) are repealed on a day to be named by proclamation of the Lieutenant Governor. 1977, c. 4, s. 1 (6).

Proceedings  
in Unified  
Family Court

4.—(1) Proceedings taken in a court or before a judge in the judicial district in the matters set out in the Schedule, other than by way of appeal, shall be commenced and styled in the Unified Family Court and the jurisdiction of the court or judge shall be exercised in the Unified Family Court. 1976, c. 85, s. 4 (1); 1977, c. 4, s. 2.

Assigned  
jurisdiction

(2) The Unified Family Court has and may exercise such other jurisdiction as is conferred upon it by or under any Act.

*Parens*  
*patriae*  
powers

(3) The Court has and may exercise the same *parens patriae* powers as the Supreme Court in respect of any matter before it.

Jurisdiction  
exercised by  
Judges

(4) The jurisdiction of the Court shall be exercised by a Judge. 1976, c. 85, s. 4 (2-4).

Consent to  
jurisdiction

5. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the Judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the Court may, by leave of the Judge and with the consent of the parties, determine and dispose of the combined matters. 1976, c. 85, s. 5.

Variation  
of orders  
under  
R.S.O. 1980,  
c. 152

6.—(1) The jurisdiction of the Court under Parts I to IV of the *Family Law Reform Act* to rehear applications applies notwithstanding that the original order was made by a judge of the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1977, c. 4, s. 3 (1).

Repeal of  
subs. (1)

(2) Subsection (1) is repealed on a day to be named by proclamation of the Lieutenant Governor.

Court  
offices

7.—(1) The Court shall have an office and hold sittings in the judicial district.

No jury

(2) All proceedings commenced in or transferred to the Court shall be heard and determined without a jury. 1976, c. 85, s. 6.

**8.**—(1) In all proceedings in which jurisdiction may be exercised in the Court, the Court has the same powers and duties as the Supreme Court to conduct its proceedings, grant remedies and enforce its judgments, orders and other process. <sup>Powers</sup>

(2) Sections 27, 34, 36, 38, 79, 80 and 122 of the *Judicature Act* apply to the Court and to Judges presiding in the Court, with necessary modifications. 1976, c. 85, s. 7. <sup>Application of R.S.O. 1980, c. 223</sup>

**9.**—(1) Proceedings under section 4 may be commenced in the Court where the applicant or the respondent resides in the judicial district. <sup>Place where proceedings commenced</sup>

(2) A Judge may, upon application, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court where, in the opinion of the Judge, there is a preponderance of convenience for the matter to be dealt with by that court. <sup>Transfer to other court</sup>

(3) A judge of a court having jurisdiction in a matter referred to in section 4 in a county or district other than the judicial district may, upon application, order that the proceeding in the matter be transferred to the Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that Court. <sup>Transfer from other court</sup>

(4) A judge making an order under subsection (2) or (3) may give such directions for the transfer and order such costs as he considers appropriate. 1976, c. 85, s. 8. <sup>Directions and costs</sup>

**10.** The Court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding Judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public. 1976, c. 85, s. 9. <sup>Closed hearings</sup>

**11.**—(1) Where a proceeding is commenced in the Court in a matter respecting which jurisdiction may not be exercised in the Court, the Court may order by and to whom the costs of the proceeding shall be paid. <sup>Costs where no jurisdiction</sup>

## References

(2) The Court may direct a reference to any officer of the Court in accordance with the rules of the Court. 1976, c. 85, s. 10.

## Contempt

**12.**—(1) The Court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed six months.

Conditions  
of  
sentence

(2) The imposition of a penalty under subsection (1) may be made conditional upon default in the performance of an undertaking and an order for imprisonment may provide for the imprisonment to be served intermittently. 1976, c. 85, s. 11.

Where  
Judge  
leaves  
office

**13.** Where a Judge ceases to hold office, he may within eight weeks give judgment or make an order or decision in a proceeding previously heard by him as if he had continued in office. 1976, c. 85, s. 12.

Status of  
orders

**14.** Any order or judgment of a Judge sitting in the Unified Family Court made in the exercise of his jurisdiction as a local judge of the Supreme Court or a judge of the county court is an order of the Supreme Court or the county court, respectively, for all purposes. 1976, c. 85, s. 13.

## Appeals

**15.**—(1) Subject to subsection (2), any provision for an appeal from an order or decision made under the statutory provisions set out in the Schedule applies to the order or decision when made in the exercise of the jurisdiction by a Judge presiding over the Unified Family Court.

## Idem

(2) Any provision for an appeal to a county court or a judge thereof from an order or decision made under the statutory provisions set out in the Schedule shall be deemed to provide for an appeal to a judge of the Supreme Court in accordance with the rules of that court and, on the appeal, the court may set aside the order and direct any other order to be entered or may direct a new trial and may make such other order as to costs and otherwise as appears just.

## Idem

(3) Where no provision is made for an appeal from an order or decision of a Judge presiding over the Unified Family Court, an appeal lies,

(a) to the Court of Appeal from a final order or decision;

- (b) to a judge of the Supreme Court from an interlocutory order or decision,

in accordance with the rules of the Supreme Court. 1976, c. 85, s. 14.

**16.** A Judge presiding over the Unified Family Court has all the powers of a magistrate under the *Criminal Code* (Canada) for the purposes of proceedings under the *Criminal Code* (Canada) and the Court,

Criminal  
jurisdiction  
R.S.C. 1970,  
c. C-34

- (a) is a juvenile court for the purpose of dealing with juvenile delinquents under the *Juvenile Delinquents Act* (Canada) and has all the powers vested in a juvenile court under that Act; and

R.S.C. 1970,  
c. J-3

- (b) has power to try any child charged with an offence against the laws of Ontario. 1976, c. 85, s. 15.

**17.** A clerk of the Court and such officers and employees as are considered necessary shall be appointed for the Court under the *Public Service Act*. 1976, c. 85, s. 16.

Clerks,  
officers and  
employees  
R.S.O. 1980,  
c. 418

**18.** A conciliation service may be established, maintained and operated as part of the Court. 1976, c. 85, s. 17 (2).

Conciliation  
service

**19.** Every probation officer appointed for the Court has, while acting in the discharge of his duties, all the powers of a police constable. 1976, c. 85, s. 18.

Powers of  
probation  
officers

**20.** Every Judge shall take and sign the following oath of office before commencing his duties:

Oath of  
office

I, . . . . ., swear (*or solemnly affirm*) that I will truly and faithfully execute the duties, powers and trusts of a Judge presiding over the Unified Family Court, to the best of my skill and knowledge.

So help me God. (*Omit this line in an affirmation*).

1976, c. 85, s. 19.

**21.—**(1) The Lieutenant Governor in Council may make rules regulating any matters relating to the practice and procedure of the Court, including, without limiting the generality of the foregoing,

Rules of  
the Court

- (a) regulating the duties of officers of the Court;



- (b) regulating the costs of proceedings in the Court;
- (c) providing for the taxation of costs and prescribing tariffs therefor;
- (d) prescribing the seal of the Court;
- (e) designating referees and providing for references to referees and appeals therefrom;
- (f) prescribing and regulating the proceedings under any Act that confers jurisdiction upon the Court or a judge sitting therein;
- (g) governing the deposit in or payment or transfer into or out of the Court of any money or property or the dealing therewith;
- (h) allowing for service out of Ontario.

Idem

(2) Where provisions in respect of practice or procedure are contained in any Act, rules may be made adding to or modifying such provisions to any extent that is considered necessary for the equitable despatch of the business of the Court unless that power is expressly excluded. 1976, c. 85, s. 20.

Regulations

**22.** The Lieutenant Governor in Council may make regulations,

- (a) specifying the returns to be made by the Court;
- (b) providing for the safekeeping, inspection and destruction of books, documents and papers of the Court;
- (c) providing for a system of recording and transcribing evidence before the Court;
- (d) providing for the appointment and employment of stenographic reporters to record evidence before the Court and fixing their fees, expenses and other forms of remuneration;
- (e) prescribing the functions of and providing for the management of a detention and observation home and a conciliation service under this Act;
- (f) prescribing the duties of the officers and employees on the staff of the Court or of any class of such officers or employees;

- (g) providing for a system of statistical records relating to the Court;
- (h) requiring the payment of fees in respect of proceedings in the Court and prescribing the amounts thereof. 1976, c. 85, s. 21.

**23.**—(1) Where a proceeding is commenced in the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth before the 5th day of February, 1977 and no evidence has been heard in the proceeding before that date, other than in respect of an interim order, the proceeding shall be deemed to be an application in the Unified Family Court subject to such directions as the court considers appropriate. Application to proceedings already commenced

(2) The Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth continues to exist for the purpose of completing proceedings commenced in it before the 5th day of February, 1977 and to which subsection (1) does not apply. Idem

(3) The Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth in place of that court. 1977, c. 4, s. 4. Enforcement of orders

**24.** This Act is repealed on the 1st day of July, 1982. Repeal  
1979, c. 108, s. 1.

SCHEDULE

Jurisdiction under the following statutory provisions :

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario)</i> (Canada)	All
<i>Child Welfare Act</i>	Parts II and III
<i>Children's Residential Services Act</i>	Subs. 18 (1) except Cls. (a) and (b)
<i>Divorce Act</i> (Canada)	All
<i>Education Act</i>	Sections 29 and 30
<i>Family Law Reform Act</i>	All, except Part V
<i>Juvenile Delinquents Act</i> (Canada)	All
<i>Marriage Act</i>	Sections 6 and 9
<i>Minors Act</i>	All
<i>Minors' Protection Act</i>	Section 2
<i>Reciprocal Enforcement of Maintenance Orders Act</i>	All
<i>Training Schools Act</i>	Section 8
	1977, c. 4, s. 6 (2).

## CHAPTER 516

### University Expropriation Powers Act

**1.**—(1) This Act applies to,

Universities  
to which  
Act applies

- (a) University of Toronto;
- (b) Queen's University;
- (c) University of Western Ontario;
- (d) McMaster University;
- (e) Carleton University;
- (f) The University of Waterloo;
- (g) York University;
- (h) Laurentian University of Sudbury;
- (i) Lakehead University;
- (j) Trent University;
- (k) University of Windsor;
- (l) Brock University;
- (m) University of Guelph;
- (n) University of Ottawa;
- (o) Wilfrid Laurier University; and
- (p) such other universities as the Lieutenant Governor in Council designates. R.S.O. 1970, c. 473, s. 1 (1); 1974, c. 4, s. 1.

(2) The Lieutenant Governor in Council may designate <sup>Idem</sup> universities, other than those referred to in subsection (1), to which this Act shall apply. R.S.O. 1970, c. 473, s. 1 (2).

**2.**—(1) Notwithstanding any special Act, a university to which this Act applies may, without the consent of the owner or of any person interested therein, other than a municipi- <sup>Expropria-  
tion</sup>



R.S.O. 1980,  
c. 148

pality or a district, regional or metropolitan municipality, enter upon, take, use and expropriate all such land, as defined in the *Expropriations Act*, as it considers necessary for the purposes of the university or of any university or college federated or affiliated with the university.

**Application**

(2) The *Expropriations Act* applies to the expropriation of land under this Act.

**Expropria-  
tion under  
this Act  
only**

(3) No university to which this Act applies shall expropriate land except under this Act. R.S.O. 1970, c. 473, s. 2.

## CHAPTER 517

### Upholstered and Stuffed Articles Act

1.—(1) In this Act,

Interpre-  
tation

- (a) “business premises” does not include a dwelling;
- (b) “Director” means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;
- (c) “dwelling” means any premises or any part thereof occupied exclusively as living accommodation;
- (d) “manufacturer” means a person who inserts and covers stuffing in any article or part thereof in the manufacture of an upholstered or stuffed article or any part thereof;
- (e) “Minister” means the Minister of Consumer and Commercial Relations;
- (f) “Ministry” means the Ministry of Consumer and Commercial Relations;
- (g) “person” means an individual, an association of individuals, a partnership or a corporation and includes an agent of any of them;
- (h) “prescribed” means prescribed by the regulations;
- (i) “registered” means registered under this Act;
- (j) “Registrar” means the Registrar of Upholstered and Stuffed Articles;
- (k) “regulations” means the regulations made under this Act;
- (l) “renovator” means a person who renovates, repairs or alters an upholstered or stuffed article;
- (m) “second-hand article” means an upholstered or stuffed article that has been purchased from a

retailer but does not include an upholstered or stuffed article returned to the retailer without use and with the original label attached;

(n) “second-hand material” means material that has been used other than in a manufacturing process;

(o) “stuffing” means any material used for padding, filling or cushioning, that is meant to be enclosed by a covering;

R.S.O. 1980,  
c. 274

(p) “Tribunal” means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*;

(q) “upholstered or stuffed article” means an article any part of which contains stuffing. R.S.O. 1970, c. 474, s. 1 (1); 1971, c. 50, s. 84 (1); 1972, c. 1, ss. 23 (5), 57.

Idem

(2) For the purposes of this Act and the regulations, an upholstered or stuffed article, other than one received for renovation and labelled under subsection 13 (3) or section 18, shall be deemed to be offered for sale while it is in the possession of or on the premises of a person carrying on business as a manufacturer, wholesaler, wholesaler-distributor or retailer. R.S.O. 1970, c. 474, s. 1 (2).

Application

**2.** Sections 4, 13, 14 and 16 do not apply in respect of the manufacture, labelling and sale,

(a) of shoulder pads and trimmings in articles of clothing;

(b) of upholstery or articles manufactured as part of a vehicle or an aeroplane; or

(c) of life-saving equipment that bears a stamp or label of approval of the Department of Transport of the Government of Canada. R.S.O. 1970, c. 474, s. 2.

Registrar

**3.—**(1) There shall be a Registrar of Upholstered and Stuffed Articles who shall be appointed by the Lieutenant Governor in Council.

Duties of  
Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. R.S.O. 1970, c. 474, s. 3.

**4.** No person shall carry on business as a manufacturer or as a renovator unless he is registered under this Act. R.S.O. 1970, c. 474, s. 4. Registration

**5.—(1)** Subject to subsection (2), the Registrar shall grant registration to any person who applies therefor in the prescribed form and pays the prescribed fee. R.S.O. 1970, c. 474, s. 5 (1). Granting of registration

(2) Subject to section 9, the Registrar may refuse to grant registration to a person who otherwise has complied with the requirements of subsection (1) where, Refusal of registration

- (a) the applicant;
- (b) a member of the applicant, where the applicant is an association or partnership; or
- (c) an officer or director of the applicant, where the applicant is a corporation,

was a registrant, or member, officer or director of a registrant, whose registration has been cancelled, unless the Registrar is satisfied that material circumstances have changed. R.S.O. 1970, c. 474, s. 5 (2); 1971, c. 50, s. 84 (2).

**6.** Every registrant shall within five days after the event notify the Registrar in writing of, Notice of changes

- (a) any change in his address for service; and
- (b) any change in the officers in the case of a corporation or of the members in the case of an association of individuals or a partnership. R.S.O. 1970, c. 474, s. 6.

**7.—(1)** Where the Registrar receives a complaint alleging the non-compliance of a registrant with this Act or the regulations and so requests in writing, the registrant shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. Investigation of complaints

(2) The request under subsection (1) shall indicate the general nature of the inquiry involved. R.S.O. 1970, c. 474, s. 7 (1, 2). Request to indicate nature of inquiry

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may enter at any reasonable time the business premises of such person and make an inspection in relation to the complaint. 1971, c. 50, s. 84 (3). Power of entry



## Inspection

8. Where the Registrar has reasonable and probable grounds to believe that any person is acting as a manufacturer or renovator while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. R.S.O. 1970, c. 474, s. 8.

## Powers on inspection

9.—(1) Upon an inspection under section 7 or 8, the person inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 474, s. 9 (1); 1971, c. 50, s. 84 (4).

## Admissibility of copies

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 474, s. 9 (2).

## Matters confidential

10. Every person employed in the administration of this Act, including any person making an inspection under section 7, 8, 9 or 19 shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates. 1971, c. 50, s. 84 (5).

11. Subject to section 12, the Registrar may suspend or revoke a registration where the registrant has contravened this Act or the regulations and has refused to comply with this Act or the regulations after being requested to do so by the Registrar in writing. 1971, c. 50, s. 84 (6), *part*.

Suspension  
and  
revocation

12.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice of  
proposal  
to refuse  
or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

Notice  
requiring  
hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of  
Registrar  
where no  
hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Powers of  
Tribunal  
where  
hearing

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Conditions  
of order

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Parties

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Voluntary  
cancellation

(8) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until

Order of  
Tribunal  
effective,  
stay

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disposition of the appeal. 1971, c. 50, s. 84 (6), *part*; 1972, c. 1, s. 23 (5).

Labelling:  
on manufac-  
ture and  
renovation

**13.**—(1) Every manufacturer and every renovator shall, immediately upon its manufacture or receipt for renovation, affix to a conspicuous part of the main body of the upholstered or stuffed article a label in the prescribed form.

second-hand  
articles

(2) Every dealer in second-hand articles shall, immediately upon their receipt, affix to a conspicuous part of each second-hand article in his possession, a label in the prescribed form.

receipt for  
renovation

(3) Every person who receives an upholstered or stuffed article for the purpose of renovation shall, where such work is to be performed by someone other than that person or his employee, immediately upon its receipt, affix to a conspicuous part of the main body of the article a label in the prescribed form. R.S.O. 1970, c. 474, s. 25.

Sale

**14.**—(1) No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article that does not bear a label complying with the regulations and securely affixed to a conspicuous part of the main body of the article.

Exception

(2) Subsection (1) does not apply to the sale or offering for sale by a householder of his own household articles on his own premises. R.S.O. 1970, c. 474, s. 26.

Removal of  
labels

**15.** No person shall remove, deface or alter or attempt to remove, deface or alter any label affixed to an article before the article to which it is affixed is sold by retail and delivered or in the case of renovations is returned to the owner. R.S.O. 1970, c. 474, s. 27.

Sale of  
articles of  
unregistered  
manufacturer

**16.** No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article, other than a second-hand article, that has not been manufactured by a manufacturer who is registered under this Act, or manufactured in a province designated by the regulations. R.S.O. 1970, c. 474, s. 28.

Second-  
hand  
material

**17.**—(1) No person shall use second-hand material as stuffing in the manufacture of an upholstered or stuffed article or add second-hand material as stuffing in its renovation.

(2) No person shall use material that contains vermin or is <sup>Unclean material</sup> unclean in the manufacture or renovation of any upholstered or stuffed article.

(3) No person shall use feathers or feather products in the <sup>Feathers</sup> manufacture or renovation of an upholstered or stuffed article unless the feathers or feather products have first been processed in the manner prescribed by the regulations. R.S.O. 1970, c. 474, s. 29.

**18.**—(1) No person shall sell or offer for sale an up- <sup>Unsanitary stuffing</sup>holstered or stuffed article that,

- (a) has been in contact with a person suffering from a communicable disease;
- (b) is so soiled or in such condition as is likely to affect adversely the health of any person; or
- (c) contains vermin,

unless the article has been sterilized or disinfected in the manner prescribed by the regulations.

(2) Where an upholstered or stuffed article to which sub- <sup>Destruction</sup>section (1) applies is offered for sale by a dealer and the Registrar or the local medical officer of health believes on reasonable and probable grounds that the article can not be satisfactorily treated and endangers public health, the Registrar or local medical officer of health may, by order in writing, require that the article be destroyed. R.S.O. 1970, c. 474, s. 30 (1, 2).

(3) Where the Registrar or local medical officer of health <sup>Appeal</sup>orders that an article be destroyed, he shall serve personally notice of such order, together with written reasons therefor, on the dealer informing him that he has a right to appeal to the Tribunal if he gives notice of appeal within five days after service of the notice by the Registrar or local medical officer of health, and the dealer may, within such time, file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

(4) Pending an appeal, the appellant shall not dispose <sup>Disposal of article prohibited</sup>of the article forming the subject-matter of an appeal.

(5) Where a dealer within five days after service on <sup>Notice of appeal</sup>him of a notice by the Registrar or local medical officer of health under subsection (3),



- (a) does not file a notice of appeal requiring a hearing by the Tribunal, the dealer shall forthwith carry out the order of the Registrar or local medical officer of health; or
- (b) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and, after the hearing, may by order confirm, revoke or modify the order appealed from and the appellant shall carry out the order of the Tribunal.

**Parties**

(6) The Registrar or the local medical officer of health, the dealer who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.

Application of  
R.S.O. 1980,  
c. 274, s. 11

(7) Section 11 of the *Ministry of Consumer and Commercial Relations Act* does not apply to proceedings before the Tribunal under this section. 1971, c. 50, s. 84 (8); 1972, c. 1, s. 23 (5).

**Inspection**

**19.—**(1) The Registrar or any person designated in writing by him may at all reasonable times enter and inspect,

- (a) the business premises where upholstered or stuffed articles are manufactured or renovated;
- (b) the business premises where materials for stuffing are processed;
- (c) the business premises where upholstered or stuffed articles are offered for sale,

and such inspection may include the examination of the stuffing in upholstered or stuffed articles by means of reasonably representative sampling. R.S.O. 1970, c. 474, s. 31 (1); 1971, c. 50, s. 84 (9).

**Off-sale  
labels**

(2) Where, upon an inspection under subsection (1), the person making the inspection finds that any upholstered or stuffed article is not labelled in accordance with this Act or the regulations, he may affix thereto an off-sale label in the prescribed form, and shall remove the off-sale labels when the labelling is corrected.

**Idem**

(3) Where, upon an inspection under subsection (1), the person making the inspection has reasonable and probable grounds for believing that stuffing does not comply with section 17 or 18, he,

- (a) may take upholstered or stuffed articles or stuffing for the purposes of testing;
- (b) may affix off-sale labels to the articles or stuffing concerned; and
- (c) shall have the specimens taken tested with all reasonable dispatch. R.S.O. 1970, c. 474, s. 31 (2, 3).

**20.**—(1) Where an off-sale label is affixed to an article under section 19, the person affected may within five days thereafter file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal. <sup>Appeal</sup>

(2) Where a person affected within five days after the affixing of an off-sale label under subsection (1) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and may by order confirm the affixing of the off-sale label or direct the Registrar or person designated in writing by him forthwith to remove the off-sale label. <sup>Hearing by Tribunal</sup>

(3) The Registrar or person designated in writing by him, the person affected who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section. <sup>Parties</sup>

(4) Section 11 of the *Ministry of Consumer and Commercial Relations Act* does not apply to proceedings under this section. 1971, c. 50, s. 84 (10); 1972, c. 1, s. 23 (5). <sup>Application of R.S.O. 1980, c. 274, s. 11</sup>

**21.**—(1) The Registrar or a person designated in writing by him shall remove an off-sale label, <sup>Removal of off-sale labels</sup>

- (a) that has been affixed under subsection 19 (2), when the labelling is corrected; or
- (b) that has been affixed under subsection 19 (3), when the tests indicate that sections 17 and 18 do not apply or when those sections have been complied with; or
- (c) that has been ordered to be removed by the Tribunal under section 20. R.S.O. 1970, c. 474, s. 32 (1); 1971, c. 50, s. 84 (11).

(2) No person, other than the Registrar or any person designated in writing by him, shall remove an off-sale label that has been affixed under section 19. R.S.O. 1970, c. 474, s. 32 (2). <sup>Idem</sup>

Preservation  
of off-sale  
articles

**22.**—(1) Subject to subsection (2), no person shall sell, offer to sell, exchange, lease or remove from the premises where it is located, any article placed off-sale under section 19, and such article shall be produced by the person having possession of the article on demand of the Registrar or any person designated in writing by him at any time until the off-sale label is removed by a person authorized by section 21.

Exception

(2) The person having possession of an off-sale article may, with the written consent of the Registrar or any person designated in writing by him, return the off-sale article to his supplier. R.S.O. 1970, c. 474, s. 33.

Duty of  
employers

**23.** Every employer shall take every precaution, reasonable in the circumstances, to ensure that his employees do not contravene this Act or the regulations or any order made under this Act. R.S.O. 1970, c. 474, s. 34.

Service

**24.**—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. R.S.O. 1970, c. 474, s. 35 (1); 1972, c. 1, s. 1.

Where service  
deemed to  
be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 84 (12).

Exception

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 474, s. 35 (3).

Restraining  
orders

**25.**—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 474, s. 36. <sup>Appeal</sup>

**26.**—(1) Except where otherwise provided, every person <sup>Offence, general</sup> who,

- (a) contravenes this Act or the regulations;
- (b) fails to comply with any order made under this Act; or
- (c) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act,

is guilty of an offence and on conviction is liable to a fine of not more than \$500 or, if such person is a corporation, to a fine of not more than \$2,000.

(2) Where a corporation is guilty of an offence under subsection (1), every director or officer who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$500. <sup>Idem</sup>

(3) No proceeding under clause (1) (a) or (b) shall be instituted more than two years after the time when the subject-matter of the proceeding arose. <sup>Limitation</sup>

(4) No proceeding under clause (1) (c) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. R.S.O. 1970, c. 474, s. 37. <sup>Idem</sup>

**27.** Any person who obstructs, hinders, delays or prevents any person authorized by this Act to enter and inspect any premises or examine any stuffed article is guilty of an offence and on conviction is liable to a fine of not more than \$250. R.S.O. 1970, c. 474, s. 38. <sup>Offence, obstruction</sup>

**28.** A statement as to,

<sup>Certificate as evidence</sup>

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or



- (d) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 474, s. 39.

## Regulations

**29.** The Lieutenant Governor in Council may make regulations,

- (a) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (b) requiring the payment of fees for any matter connected with registration and prescribing the amounts thereof;
- (c) prescribing the form of labels required or authorized by this Act to be affixed to upholstered and stuffed articles, or any class thereof, and adopting labels affixed under the laws of any other province designated by the regulations;
- (d) prescribing procedures for the taking of samples and the attaching and removal of off-sale labels;
- (e) designating provinces for the purposes of section 16;
- (f) prescribing the processing that shall be used for feathers and feather products used as stuffing;
- (g) prescribing processes for sterilizing and disinfecting for the purposes of section 18;
- (h) prescribing forms for the purposes of this Act and providing for their use;
- (i) requiring registrants to make returns and furnish information to the Registrar;
- (j) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (k) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

- (l) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof. R.S.O. 1970, c. 474, s. 40.



## CHAPTER 518

Urban Transportation Development  
Corporation Ltd. Act

**1.** In this Act, “Urban Transportation Development Corporation” means the Urban Transportation Development Corporation Ltd., a corporation incorporated by letters patent dated the 10th day of October, 1974 issued under the *Canada Corporations Act*. Interpretation  
R.S.C. 1970,  
c. C-32  
1980, c. 72, s. 1.

**2.** It is hereby declared that the Urban Transportation Development Corporation is not an agent of Her Majesty at common law nor a Crown agency within the meaning of the *Crown Agency Act*. Not a Crown  
agency  
R.S.O. 1980,  
c. 106 1980, c. 72, s. 2.

**3.**—(1) The Lieutenant Governor in Council may, on behalf of the Province of Ontario, on such terms as are approved by order in council, enter into any covenants or agreements of guaranty or indemnity in connection with any contract of indemnity to which Urban Transportation Development Corporation is a party and may guarantee the observance and performance by Urban Transportation Development Corporation of any such contract of indemnity or indemnify any person in the event of any failure by Urban Transportation Development Corporation to perform any such contract of indemnity. Guaranteeing  
performance  
of contract  
of indemnity

(2) All moneys required to be paid by the terms of a guaranty or indemnity under subsection (1) shall be paid out of the Consolidated Revenue Fund. Payment  
of moneys 1980, c. 72, s. 3.





## CHAPTER 519

### Variation of Trusts Act

**1.**—(1) Where property, real or personal, is held on trusts heretofore or hereafter arising under any will, settlement or other disposition, the Supreme Court may, if it thinks fit, by order approve on behalf of,

Jurisdiction  
of courts to  
vary trusts

- (a) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting; or
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons; or
- (c) any person unborn; or
- (d) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

any arrangement, by whomsoever proposed and whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts.

(2) The court shall not approve an arrangement on behalf of any person coming within clause (1) (a) (b) or (c) unless the carrying out thereof appears to be for the benefit of that person. R.S.O. 1970, c. 477, s. 1.

Benefit

**2.** Where a person proposes that an arrangement be approved by the Supreme Court under this Act and the court makes an order with respect thereto that affects any trust or the powers of trustees mentioned in a will that is the subject of any grant from a surrogate court, the order shall contain a provision requiring such person to forthwith cause a certified copy of the order to be filed with the registrar of the surrogate court that made the grant. R.S.O. 1970, c. 477, s. 2.

Where  
surrogate  
court grants  
affected



## CHAPTER 520

### Vendors and Purchasers Act

**1.** In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall, subject to any stipulation to the contrary in the contract, be regulated by the following rules:

Rights of vendors and purchasers in contracts of sale of lands

1. Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations twenty years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, are sufficient evidence of the truth of such facts, matters and descriptions.

Recitals, etc., 20 years old, of facts, etc., *prima facie* evidence

2. A registered memorial of a discharged mortgage is sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the mortgage unless it is in his possession or power.

Memorials of discharged mortgages

3. A registered memorial twenty years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, is sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the original instrument unless it is in his possession or power, and the memorial shall be presumed to contain all the material contents of the instrument to which it relates.

Memorials 20 years old, when, and of what, evidence

4. The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, is not an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. R.S.O. 1970, c. 478, s. 1.

Inability to furnish covenant to produce and furnish documents of title

**2.** In an action it is not necessary to produce any evidence that by section 1 is dispensed with as between vendor and purchaser, and the evidence therein declared to be sufficient

Evidence in actions



as between vendor and purchaser is *prima facie* sufficient for the purposes of the action. R.S.O. 1970, c. 478, s. 2.

Applications to court as to requisitions, objections, compensation, etc.

3.—(1) A vendor or purchaser of real or leasehold estate or his representative may at any time and from time to time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate in respect of any requisition or objection or any claim for compensation or any other question arising out of or connected with the contract, except a question affecting the existence or validity of the contract, and the court may make such order upon the application as may be considered just.

Removal of proceedings into Supreme Court

(2) Where an application under subsection (1) is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission of proceedings

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference to master

(5) Where an application under subsection (1) is made to or is removed into the Supreme Court, the court may refer any question to a master or other officer for inquiry and report.

Appeal

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1970, c. 478, s. 3.

Terms of agreement of sale and purchase

4. Every contract for the sale and purchase of land shall, unless otherwise stipulated, be deemed to provide that,

- (a) the vendor is not bound to produce any abstract of title, deed, copies of deeds or other evidence of title except such as are in his possession or control;
- (b) the purchaser shall search the title at his own expense and shall make his objections thereto in writing within thirty days from the making of the contract;

- (c) the vendor has thirty days in which to remove any objection made to the title, but if he is unable or unwilling to remove any objection that the purchaser is not willing to waive, he may cancel the contract and return any deposit made but is not otherwise liable to the purchaser;
- (d) taxes, local improvement rates, insurance premiums, rents and interest, shall be adjusted as at the date of closing;
- (e) the conveyance shall be prepared by the vendor and the mortgage, if any, by the purchaser and the purchaser shall bear the expense of registration of the deed and the vendor shall bear the expense of the registration of the mortgage, if any;
- (f) the purchaser is entitled to possession or the receipt of rents and profits upon the closing of the transaction. R.S.O. 1970, c. 478, s. 4.



## CHAPTER 521

## Venereal Diseases Prevention Act

## 1. In this Act,

Interpre-  
tation

- (a) "medical officer of health" means a medical officer of health appointed under the *Public Health Act*; R.S.O. 1980, c. 409
- (b) "Minister" means the Minister of Health;
- (c) "place of detention" means a hospital, sanatorium, correctional institution, lock-up, Ontario training school, or any place designated as a place of detention by the Lieutenant Governor in Council but does not include an isolation hospital for the care of communicable diseases, other than venereal disease, as defined by the *Public Health Act*;
- (d) "physician" means a legally qualified medical practitioner;
- (e) "prescribed" means prescribed by the regulations;
- (f) "regulations" means the regulations made under this Act or the *Public Health Act*;
- (g) "venereal disease" means syphilis, gonorrhoea, chan-  
croid, granuloma inguinale or lymphogranuloma  
venereum. R.S.O. 1970, c. 479, s. 1; 1971, c. 33,  
s. 1.

2.—(1) Every person infected with venereal disease upon becoming aware or suspecting that he is so infected shall place himself forthwith under the care and treatment of a physician, and if unable to obtain such care or treatment he shall apply to the medical officer of health for the place in which he is ordinarily or temporarily resident.

Infected  
person to  
submit to  
treatment

(2) Every such person shall conduct himself in such a manner as not to expose other persons to the danger of infection, and shall take and continue treatment in a manner and to an extent considered to be adequate by the attending physician and the Minister. R.S.O. 1970, c. 479, s. 2.

Idem



Duty to  
report

**3.**—(1) It is the duty of,

- (a) every physician;
- (b) every superintendent or head of a hospital, sanatorium or laboratory; and
- (c) every person in medical charge of any correctional institution, lock-up, training school, school or college or other similar institution,

to report within twenty-four hours every case of venereal disease coming under his diagnosis, treatment, care or charge for the first time to the medical officer of health in the locality in which such diagnosis, treatment, care or charge is made.

Method of  
reporting

(2) Every person required to report a case of venereal disease under subsection (1) shall make such report in writing, by telephone, or in person to the medical officer of health.

Report to  
Minister

(3) The report referred to in subsection (2) shall within one week of being received by the medical officer of health be forwarded in the prescribed form to the Minister. 1971, c. 33, s. 2.

Action of  
m.o.h. on  
reasonable  
belief

**4.**—(1) Where a medical officer of health has reasonable grounds for believing that a person within the municipality is or may be infected with venereal disease or has been exposed to infection, the medical officer of health may give notice in writing in the prescribed form to such person directing him to submit to an examination by a physician designated by or satisfactory to the medical officer of health, and to procure and produce to the medical officer of health within the time specified in the notice, a report or certificate of the physician that such person is or is not infected with venereal disease.

Offence

(2) Every person who without reasonable excuse, the proof of which is upon him, fails to comply with a direction made under subsection (1) is guilty of an offence and liable to imprisonment for a term of not less than seven days and not more than twelve months.

Powers of  
m.o.h. on  
report

(3) If by the report or certificate mentioned in subsection (1) it appears that the person so notified is infected with venereal disease, the medical officer of health may,

- (a) deliver to such person directions in the prescribed form as to the course of conduct to be pursued

and may require such person to produce from time to time evidence satisfactory to the medical officer of health that he is undergoing adequate medical treatment and is in other respects carrying out such directions, and where such person fails to comply with the course of conduct prescribed for him or to produce the evidence required, the medical officer of health may exercise all the powers vested in him by clause (b) or may proceed under section 6; or

- (b) with the approval of the Minister, order in writing that such person be removed and detained in a place of detention for the prescribed treatment until such time as the medical officer of health is satisfied that an adequate degree of treatment has been attained.

(4) Where a medical officer of health makes an order under clause (3) (b), he shall deliver the order to a peace officer who shall thereupon take the person named in the order into his custody and remove him to the place of detention named in the order, and the person for the time being in charge of the place of detention, upon receiving the order, shall receive such person and shall detain him until he is authorized by the medical officer of health to release him.

Duties of  
peace officer  
on order  
of m.o.h.

(5) A medical officer of health may adopt the procedure or do any of the acts referred to in subsection (3) with regard to any person who has been examined by a physician at any time within one year previously and has been certified by such physician to be infected with syphilis.

Where  
person  
certified  
within  
one year

(6) A medical officer of health may require a person whom he believes may be infected with venereal disease to undergo more than one examination in order to determine the presence or absence of such infection. R.S.O. 1970, c. 479, s. 4.

More  
than one  
examination  
may be  
required

5.—(1) Where,

Authority of  
M.O.H.

- (a) any person has been named under oath as a source or contact of venereal disease or is believed by the medical officer of health to be a source or contact of such venereal disease; and

- (b) in the opinion of the medical officer of health the clinical findings and history of such person

indicate that such person is or may be infected with venereal disease,

the medical officer of health may, whether or not laboratory findings indicate the presence of venereal disease, proceed in the manner prescribed in clauses 4 (3) (a) and (b). 1971, c. 33, s. 3.

Medical officer of health may take statement under oath

(2) For the purposes of subsection (1), a medical officer of health may administer an oath and take a statement under oath. R.S.O. 1970, c. 479, s. 5 (2).

Information or complaint

**6.**—(1) Any medical officer of health may make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clause (5) (a) or (b) exist with regard to any person named in such complaint or information.

Issue of summons

(2) Upon receiving any such complaint or information, the justice of the peace shall hear and consider the allegations of the complainant, and if he considers it desirable or necessary the evidence of any witness or witnesses, and if he is of the opinion that a case for so doing is made out he shall issue a summons directed to the person complained of requiring him to appear before a provincial judge at a time and place named therein.

Issue of warrant

(3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, a provincial judge may issue a warrant directing that the person named in the summons be brought before him.

Provincial judge's inquiry

(4) Where a person appears or is brought before a provincial judge under this section, the judge shall inquire into the truth of the matters charged in the complaint or information and for such purpose shall proceed in the manner prescribed by the *Provincial Offences Act* and has the powers of a provincial judge holding a hearing under that Act.

R.S.O. 1980, c. 400

Order for detention

(5) Where a provincial judge finds that any person,

(a) is infected with a venereal disease and is unwilling or unable to conduct himself in such a manner as not to expose other persons to the danger of infection; or

- (b) is infected with a venereal disease and refuses or neglects to take or continue treatment as required by this Act and the regulations,

he shall order that such person be admitted to and detained in a place of detention for such period not exceeding one year as the provincial judge may consider necessary.

(6) In any inquiry under this section, a certificate as to the result of any test made, signed or purporting to be signed by the director of a laboratory approved by the Minister is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature.

(7) Any person detained under this section may, with the approval in writing of the Minister, be brought before a provincial judge at any time during the last thirty days of the period for which he is so detained, and if the judge finds that he is still infected with venereal disease and in need of further treatment, he may order that such person be further detained for such period not exceeding one year as the judge may consider necessary.

(8) Where the Minister is of the opinion that any person detained under this section is no longer infected with venereal disease or has received an adequate degree of treatment, he may direct the discharge of such person.

R.S.O. 1970, c. 479, s. 6.

7.—(1) Where any physician in medical charge of any correctional institution, lock-up or training school, has reason to believe that any person under his charge may be infected with venereal disease or has been exposed to infection with venereal disease, he may, and if he is directed by the medical officer of health, he shall cause such person to undergo such examination as may be necessary to ascertain whether or not he is infected with venereal disease or to ascertain the extent of venereal disease infection and if the examination discloses that he is so infected the physician shall report the facts to the medical officer of health who may thereupon exercise the powers vested in him by section 9.

(2) Where an examination has not been made under this section, every physician in medical charge of any correctional institution, lock-up, or training school, shall report to the medical officer of health the name and place of confinement of any person under his charge whom he suspects or believes to be infected with venereal disease



and the report shall be made within twenty-four hours after he suspects or believes such person to be so infected.

Duplicate  
report

(3) A copy or statement of every report made under this section shall be forwarded to the Minister and to the medical officer of health of the municipality in which such person resided before being admitted to such institution by the physician making the report. R.S.O. 1970, c. 479, s. 7.

Examination  
of person in  
custody or  
committed  
to prison

8. When a medical officer of health believes that any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, has been or may be infected or has been exposed to infection with venereal disease, he may cause such person to undergo such examination as may be necessary in order to ascertain whether or not such person is infected with venereal disease or to ascertain the extent of infection with venereal disease, and may direct that such person shall remain in custody until the results of the examination are known. R.S.O. 1970, c. 479, s. 8.

Treatment  
where  
disease  
found to  
exist

9. Where any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found to be infected with venereal disease, the medical officer of health may by order in writing direct that such person undergo treatment therefor and that such action be taken as the medical officer of health or the Minister may consider advisable for his isolation and the prevention of infection by him, and that he be detained in custody until cured or until he has received a degree of treatment considered adequate by the attending physician and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. R.S.O. 1970, c. 479, s. 9.

Physician  
to report  
person  
refusing to  
continue  
treatment

10.—(1) Where a person who has been under treatment for venereal disease refuses or neglects to continue treatment in a manner and to a degree satisfactory to the attending physician and the Minister, the physician shall report to the Minister the name and address of such person together with such other information as may be required by the regulations.

(2) A person who fails to attend upon his physician within seven days of an appointment for treatment shall be presumed to have neglected to continue treatment and the attending physician shall report such failure in writing to the Minister and the medical officer of health within fourteen days of the appointment.

Failure to attend within seven days

(3) A physician who fails to report as required by this section is guilty of an offence and is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1970, c. 479, s. 10.

Offence

**11.**—(1) No person other than a physician shall attend upon or prescribe for or supply or offer to supply any drug, medicine, appliance or treatment to or for a person suffering from venereal disease for the purpose of the alleviation or cure of such disease.

Supply of drugs, etc., by unqualified persons prohibited

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable to a fine of not less than \$100 and not more than \$500 and in default of immediate payment shall be imprisoned for a term of not more than twelve months.

Offence

(3) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a patient of a physician upon a written prescription signed by such physician or who sells to any person any patent, proprietary or other medicine, drug or appliance approved by the regulations for the cure or alleviation of venereal disease, but no prescription shall be filled more than once except upon the written direction of the prescribing physician. R.S.O. 1970, c. 479, s. 11.

Exception as to pharmacist R.S.O. 1980, c. 196

**12.**—(1) Every person who,

Offences

- (a) wilfully neglects or disobeys any order or direction given by a medical officer of health or the Minister or Deputy Minister under this Act or the regulations;
- (b) hinders, delays or obstructs any medical officer of health, peace officer or other person acting in the performance of his duties under this Act;
- (c) publishes any proceedings taken under this Act or the regulations contrary to subsection (2);
- (d) wilfully represents himself as bearing some other name than his own or makes any false statements as to his ordinary place of residence during the

course of his treatment for any venereal disease with the purpose of concealing his identity;

(e) during the course of his treatment for any venereal disease changes his place of residence without giving due notice of such proposed change with his new address to the attending physician; or

(f) fails to comply with any of the provisions of this Act or the regulations,

is guilty of an offence and, where no other penalty is prescribed, is liable to a fine of not less than \$25 and not more than \$100 and in default of immediate payment shall be imprisoned for a term of not more than three months.

Prosecutions  
R.S.O. 1980,  
c. 400

(2) The *Provincial Offences Act* applies to prosecutions under this Act or the regulations but all proceedings for the recovery of penalties under this Act and proceedings authorized by section 6 shall be conducted *in camera* and no person shall publish or disclose any such proceedings except under the authority of this Act or the regulations.

Summons  
by personal  
service

(3) Notwithstanding the provisions of the *Provincial Offences Act*, service of any summons issued for a contravention of this Act may be effected by personal service. R.S.O. 1970, c. 479, s. 12.

Statements  
as to  
existence  
of disease

**13.**—(1) Every person who publicly or privately, verbally or in writing, directly or indirectly, states or intimates that any other person has been notified or examined or otherwise dealt with under this Act, whether such statement or intimation is or is not true, is guilty of an offence, and in addition to any other penalty or liability, is liable to a fine of \$200 and in default of immediate payment shall be imprisoned for a term of not more than six months.

Exceptions

(2) Subsection (1) does not apply,

(a) to a communication or disclosure made in good faith,

(i) to the Minister or Deputy Minister of Health,

(ii) to a medical officer of health for his information in carrying out the provisions of this Act,

- (iii) to a physician,
- (iv) in the course of consultation for treatment for venereal disease,
- (v) to the superintendent or head of any place of detention;
- (b) to any evidence given in any judicial proceedings of facts relevant to the issue; or
- (c) to any communication authorized or required to be made by this Act or the regulations.

(3) Notwithstanding subsection (1), a physician may give <sup>Information to family</sup> information concerning the patient to other members of the patient's family for the protection of health. R.S.O. 1970, c. 479, s. 13.

**14.** Every person engaged in the administration of this <sup>Obligation to observe secrecy</sup> Act shall preserve secrecy with regard to all matters that may come to his knowledge in the course of such employment and shall not communicate any such matter to any other person except in the performance of his duties under this Act or when instructed to do so by a medical officer of health or the Minister and in default he shall in addition to any other penalty forfeit his office or be dismissed from his employment. R.S.O. 1970, c. 479, s. 14.

**15.** No person shall issue or make available to any <sup>Laboratory reports</sup> person other than a physician or such persons as are engaged in the administration of this Act any laboratory report either in whole or in part of an examination made to determine the presence or absence of venereal disease. R.S.O. 1970, c. 479, s. 15.

**16.** Every hospital receiving aid from the Province of Ontario, except isolation hospitals for the care of communicable diseases as defined by the *Public Health Act* shall make adequate provision for the reception, examination and treatment, upon such terms as may be prescribed, of such persons or classes of persons infected with venereal disease as may by this Act or the regulations be required or permitted to be treated at such hospital and in case of default the Treasurer of Ontario may withhold from any hospital the whole or any part of any grant or subsidy that would otherwise be payable. R.S.O. 1970, c. 479, s. 16. <sup>Hospitals to make provision for treatment, etc. R.S.O. 1980, c. 409</sup>

**17.** The medical officer of health of each municipality <sup>Provision for treatment</sup> shall make provision for the adequate treatment of all



persons infected with venereal disease within such municipality when such persons apply or are referred to him or when requested to do so by the Minister. R.S.O. 1970, c. 479, s. 17.

Payment of  
expenses by  
municipalities

**18.**—(1) The treasurer of the municipality shall forthwith upon demand, pay the amount of any account for services performed, materials or supplies furnished, or any expenditure incurred under the direction of the medical officer of health in carrying out the provisions of this Act and the regulations.

Secrecy as  
to name

(2) The name of any person infected or suspected to be infected with any venereal disease shall not appear on any account in connection with treatment therefor, but the case shall be designated by a number and it is the duty of every local board of health to see that secrecy is preserved.

Offence

(3) Every person who contravenes the provisions of subsection (2) is guilty of an offence and is liable to the penalties provided by sections 13 and 14. R.S.O. 1970, c. 479, s. 18.

Transfer  
to other  
municipality

**19.** Where any direction or order of a medical officer of health or provincial judge involves the transfer of a person infected with venereal disease from one municipality to another municipality,

- (a) the medical officer of health of the second municipality shall, upon such transfer being effected and until the return of such person to the first municipality, exercise all the powers and perform all the duties conferred or imposed by this Act or the regulations upon a medical officer of health with respect to such person;
- (b) the liability of the first municipality under section 18 shall extend to any account for services performed, materials or supplies furnished, or any expenditure incurred in respect of such person under the direction of the medical officer of health for the second municipality in carrying out the provisions of this Act and the regulations; and
- (c) a duplicate original of every written report made by the person in medical charge of a place of detention in which such person is placed in the second municipality to the medical officer of health



thereof shall be sent forthwith to the medical officer of health of the first municipality. R.S.O. 1970, c. 479, s. 19.

**20.** Where a person is admitted to a place of detention under this Act, whether such admission is voluntary or under the order of a provincial judge or medical officer of health,

Places of  
detention,  
maintenance,  
conduct

(a) subject to the regulations, the provisions of law relating to the liability for and payment of maintenance of patients, inmates or pupils in such place of detention apply; and

(b) such person is subject to all rules, regulations, and provisions of law governing the conduct of patients, inmates or pupils of such place of detention. R.S.O. 1970, c. 479, s. 20.

**21.**—(1) The consent only of any person of the age of sixteen years or over to being examined or treated or both for venereal disease shall be deemed to be sufficient consent for such purposes and where such consent is given no action or other proceeding lies against a physician for acting upon such consent.

Consent of  
persons 16  
or over to  
treatment

(2) No action or other proceeding lies against a physician for acting upon a consent given by a person under sixteen years of age to be examined or treated or both for venereal disease if the physician had no reason to believe that the person giving the consent was under sixteen years of age.

Under 16

**22.** Where any person infected or believed to be infected with venereal disease is a child under the age of sixteen years, all notices, directions or orders required or authorized by this Act or by the regulations to be given in respect of the child shall be given to the father or mother or to the person having the custody of the child for the time being and it is the duty of the father, mother or other person to see that the child complies in every respect with every such notice, order or direction and in default thereof the father, mother or other person, as the case may be, is liable to the penalties provided by this Act or the regulations for non-compliance with any such notice, direction or order unless on any prosecution in that behalf it is proven to the satisfaction of the court that the father, mother or other person did everything in his power to cause the child to comply therewith. R.S.O. 1970, c. 479, s. 21.

Where  
person  
infected  
is under  
16 years  
of age

## Grants

**23.** The Minister may make grants out of such moneys as may be appropriated by the Legislature for the purpose,

- (a) for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease in addition to or in lieu of any other moneys that may be payable for such purposes; and
- (b) so as to reimburse municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease,

in such amounts, at such times and upon such conditions as may be prescribed by the regulations. R.S.O. 1970, c. 479, s. 22.

## Regulations

**24.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the method and extent of the examination of any person for the purpose of ascertaining whether or not such person is infected with venereal disease or the extent of the infection;
- (b) prescribing the course of conduct to be pursued by any person infected with venereal disease in order to effect a cure and to prevent the infection of other persons;
- (c) prescribing the hospitals that shall furnish treatment to persons or any classes of persons infected with venereal disease;
- (d) prescribing rules for the treatment of persons infected with venereal disease in hospitals, places of detention and other places;
- (e) for preventing the spread of infection from persons suffering from venereal disease;
- (f) for distributing to physicians and hospitals information as to the treatment, diet and care of persons infected with venereal disease and requiring physicians and hospitals to distribute the information to such persons;

- (g) providing for the approval by the Minister of methods and remedies for the treatment, alleviation and cure of venereal disease;
- (h) providing for the display of notices and placards dealing with venereal disease, its cause, manifestation, treatment and cure;
- (i) prescribing the forms of notices, certificates and reports required or authorized to be given or issued under this Act;
- (j) requiring every physician to furnish reports with respect to the condition and treatment of persons infected with venereal disease who are or who have been under his diagnosis, treatment, care or charge;
- (k) prescribing the procedure to be followed and the evidence required in case of an appeal to the Minister from any action or decision of a medical officer of health under this Act;
- (l) approving patent, proprietary or other medicines, drugs or appliances for the cure or alleviation of venereal disease;
- (m) providing for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the treatment of persons infected or suspected of being infected with venereal disease;
- (n) requiring the approval of the Minister to the appointment of legally qualified medical practitioners, nurses and other technical staff employed in clinics for the treatment of venereal disease;
- (o) prescribing the amounts of, the times at which and the conditions upon which grants may be made for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease and for reimbursing municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease;
- (p) prescribing fees that shall be paid under this Act;

- (q) prescribing the mode of sending or giving any notice, report or direction required or permitted to be sent or given by this Act or the regulations;
- (r) generally for the better carrying out of the provisions of this Act and for the prevention, treatment and cure of venereal disease.

Expenses  
of free  
distribution

(2) The Minister may, out of any moneys appropriated by the Legislature for the purposes of this Act, provide for the payment of the expenses incurred in carrying out this Act and the regulations including the manufacture and free distribution to local boards of health, physicians and hospitals of any drug, medicine, appliance or instrument that the Minister may consider useful or necessary for the alleviation, treatment or cure of venereal disease or the prevention of infection therewith. R.S.O. 1970, c. 479, s. 23.

Appeal to  
Minister

**25.**—(1) Every person who considers himself aggrieved by any action or decision of a medical officer of health under this Act may appeal therefrom to the Minister by giving notice in writing to the Minister and to the medical officer of health.

Evidence  
on appeal

(2) The Minister may require the appellant to furnish such information and evidence and to submit to such examination as may be prescribed or as the Minister may consider necessary to determine the matter in dispute.

Decision  
final

(3) The decision of the Minister is final. R.S.O. 1970, c. 479, s. 24.

Actions

**26.** No action or other proceeding shall be brought against any physician in respect of any examination or certificate given or required to be given by him under this Act, without the consent in writing of the Minister. R.S.O. 1970, c. 479, s. 25.

Right of  
entry

**27.** The medical officer of health or a physician designated by him in writing for the purpose may enter in and upon any house, outhouse or premises in the day time for the purpose of making inquiry and examination with respect to the state of the health of any person therein and may cause any person found therein who is infected with any venereal disease to be removed to a place of detention or may give such directions as may prevent other persons in the same house, outhouse or premises from being infected. R.S.O. 1970, c. 479, s. 26.

**28.** The Deputy Minister of Health and any officer of the Ministry designated by the Minister are medical officers of health for Ontario within the meaning of this Act. R.S.O. 1970, c. 479, s. 27; 1972, c. 1, s. 1.

**29.** The Minister may delegate to the Deputy Minister of Health or any other officer of the Ministry of Health any of the powers vested in him under this Act or the regulations. R.S.O. 1970, c. 479, s. 28; 1972, c. 1, s. 1.

**30.** The administration of this Act and the regulations shall not interfere with the course of justice in the case of any person under arrest or in custody previous to trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder, but where it is necessary for the purpose of any examination authorized or required by this Act, such person may be held in custody until the results of the examination are known. R.S.O. 1970, c. 479, s. 29.





## CHAPTER 522

## Veterinarians Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “animal” means a living being, other than a human being;
- (b) “Association” means the Ontario Veterinary Association;
- (c) “council” means the council of the Association;
- (d) “member” means a member of the Association;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “registered” means registered as a member under this Act and “registration” has a corresponding meaning;
- (g) “registrar” means the registrar of the Association;
- (h) “veterinary science” means the application of medicine or surgery to any animal, and includes diagnosing, prescribing, treating, manipulating and operating for the prevention, alleviation or correction of any disease, injury, pain, deficiency, deformity, defect, lesion, disorder or physical condition of or in any animal, with or without the use of instruments, appliances, medicine, drugs, anaesthetics, or antibiotic or biologic preparations, and also includes the giving of advice in respect of anything mentioned in this clause with a view to obtaining a fee or other remuneration.

## (2) Nothing in this Act applies to or affects,

Where Act  
does not  
apply

- (a) the furnishing of first aid or temporary assistance to an animal in an emergency;
- (b) the treatment of an animal by its owner, by a member of his household or by a person regularly employed by him in agricultural or domestic work;

(c) the treatment of an animal by an employee of a member under the supervision of the member;

(d) caponizing and the taking of poultry blood samples;

(e) the study, prevention and treatment of fish diseases;

R.S.O. 1980.  
c. 29

(f) any act done under the *Artificial Insemination of Live Stock Act*; or

(g) the castration of calves, pigs and lambs. R.S.O. 1970, c. 480, s. 1; 1973, c. 119, s. 1.

Association  
continued

**2.** The Ontario Veterinary Association is continued as a corporation and every person registered is a member. R.S.O. 1970, c. 480, s. 2.

Power to  
acquire  
property

**3.** The Association may purchase, acquire or take by gift, devise, bequest or donation any real or personal property for the purposes of the Association and mortgage or lease the same, and may sell or otherwise dispose of any real or personal property not required for the purposes of the Association. R.S.O. 1970, c. 480, s. 3.

Council,  
composition

**4.—(1)** The council shall consist of not fewer than nine elected members, each of whom shall be a member of the Association.

elections

(2) The manner of electing the members of the council, the notification of the electors of the time and place of holding the election, the number of electoral districts and the boundaries thereof, the number of members to be elected by each district, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, the tenure of office of members and other necessary details shall be as determined by the by-laws.

quorum

(3) At any meeting of the council a majority of the members of the council constitutes a quorum. R.S.O. 1970, c. 480, s. 4.

Officers  
of council

**5.** The council shall at its first meeting in each year elect a president, a first vice-president and a second vice-president from among its members, who shall hold office until their successors are elected. R.S.O. 1970, c. 480, s. 5.

Fees and  
expenses

**6.** The members of the council, the president, the first vice-president and the second vice-president shall be paid such fees and travelling allowances as the by-laws fix. R.S.O. 1970, c. 480, s. 6.

7. The council may appoint and fix the remuneration of a registrar, a treasurer and a secretary, none of whom shall be a member of the council, and any or all of such offices may be held by one person. R.S.O. 1970, c. 480, s. 7.

Officers of  
Association

8.—(1) The council may pass by-laws,

By-laws

- (a) respecting the admission and registration of members, prescribing classes of registrations and governing the requirements and qualifications for the granting of registrations or any class thereof and prescribing the terms and conditions on which registrations or any class thereof are granted;
- (b) requiring the payment of fees by members and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the registrar is required or authorized to do, and prescribing the amounts thereof;
- (c) respecting the register of members;
- (d) prescribing the notice, the time, the place and the order of business of meetings of the members and of the council;
- (e) providing for the government and discipline of the members;
- (f) prescribing a code of professional ethics;
- (g) defining “unprofessional conduct”, “gross negligence” and “incompetence”, and designating criminal offences for the purposes of section 13;
- (h) respecting the election of the members of the council and its officers;
- (i) providing for the establishment and operation of committees;
- (j) respecting the board of examiners and the examinations;
- (k) prescribing the duties of the registrar, the treasurer and the secretary;
- (l) fixing the fees and travelling allowances of the members of the council and its officers;
- (m) establishing the governing scholarships, bursaries and prizes;
- (n) instituting and providing means for increasing the knowledge and skill of the members and for maintaining a high standard of professional ethics;

- (o) providing for and prescribing the terms and conditions of honorary membership and life membership in the Association;
- (p) respecting the management of the property of the Association;
- (q) providing for the investment of any money not immediately required in securities in which trust moneys may be invested by law;
- (r) for all such purposes as may be considered necessary or convenient for the management of the Association and the conduct of its affairs. R.S.O. 1970, c. 480, s. 8 (1); 1979, c. 53, s. 1.

Interpre-  
tation of  
by-laws

(2) As between members, the ruling of the council on the construction and interpretation of the by-laws is final.

Approval  
of by-laws

(3) No by-law has any force or effect until it has been approved by a general meeting of the members, of which meeting notice shall be given by mail to all members at least thirty days before it is held. R.S.O. 1970, c. 480, s. 8 (2, 3).

Board of  
examiners

**9.—**(1) The council shall appoint annually a board of examiners.

Examina-  
tions

(2) Examinations of applicants for registration shall be held at least once a year at such place or places as the council may direct.

Application  
for regis-  
tration

(3) An application for registration shall be made to the registrar and referred by him to the council which may direct that registration be granted forthwith or that the applicant take an examination before the board of examiners or such members of the board as may be deputed by the council to conduct such examination, but in no case shall a graduate in veterinary science of the Ontario Veterinary College who applies for registration within one year after graduation be required to take a written examination.

Notice of  
result

(4) As soon as possible after the close of each examination, the members of the board who have conducted the examination shall make and file with the registrar a certificate stating the result of such examination, whereupon the registrar shall notify each candidate of the result of his examination and of the council's decision upon his application. R.S.O. 1970, c. 480, s. 9.

Eligibility  
for regis-  
tration

**10.** No person is eligible for registration unless the council is satisfied that he is,



- (a) a graduate in veterinary science of the Ontario Veterinary College or the University of Toronto;
- (b) a graduate in veterinary science of a veterinary college or university recognized by resolution of the council; or
- (c) entitled to practise under section 11 of *The Veterinarians Act*, being chapter 416 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1970, c. 480, s. 10.

**11.**—(1) No person shall practise veterinary science unless he is registered. Practice prohibited without registration

(2) Certificates of registration shall be issued annually by the registrar and he shall keep a register of the names of those to whom certificates are issued. R.S.O. 1970, c. 480, s. 11. Certificates and register

**12.**—(1) Every member of the Association shall annually on or before the 1st day of December pay to the treasurer such registration fee as the by-laws prescribe for the year next ensuing, and no certificate for that year shall be issued until the fee has been paid. R.S.O. 1970, c. 480, s. 12 (1). Annual fee

(2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty as the by-laws prescribe. 1979, c. 53, s. 2. Default in payment

(3) As soon as a registration is suspended under subsection (2), the person affected ceases to be registered and the registrar shall make a note thereof in the register. R.S.O. 1970, c. 480, s. 12 (3). Effect of suspension

**13.**—(1) The council may in its discretion suspend or cancel the registration of any member whom it has found to be guilty of unprofessional conduct, gross negligence or incompetence or who has been convicted by a court of competent jurisdiction of a criminal offence designated in the by-laws, or the council may reprimand or censure any such member. Suspension and cancellation of certificates

(2) The council shall not take any such action until after a complaint under oath has been filed with the registrar and a copy thereof forwarded to the member accused, nor without having previously summoned the member to appear before the council, nor without having heard evidence under oath in support of the complaint, nor without affording the member an opportunity of submitting evidence on his behalf. R.S.O. 1970, c. 480, s. 13 (1, 2). Procedure

- Powers  
R.S.O. 1980,  
c. 411
- (3) The council has for the purposes of a hearing under this section all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such hearing as if it were an inquiry under that Act. R.S.O. 1970, c. 480, s. 13 (3); 1971, c. 49, s. 18.
- Evidence  
to be taken  
down
- (4) The evidence given at a hearing under this section shall be taken down by a duly sworn shorthand reporter.
- Appeal
- (5) Any person whose registration has been suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Divisional Court in accordance with the rules of court from the order, and the court may confirm, vary, vacate or set aside the order and may make an order for payment of the costs of the appeal.
- When order  
effective
- (6) An order of the council suspending or cancelling the registration of a member does not affect the member's right to practise until the time within which an appeal may be taken has expired and, where an appeal is taken, the suspension or cancellation has been upheld by the Divisional Court.
- Effect of  
suspension
- (7) As soon as the order for the suspension of a registration becomes effective, the person affected ceases to be registered and the registrar shall make a note thereof in the register.
- Effect of  
cancellation
- (8) As soon as the order for the cancellation of a member's certificate becomes effective, the person affected ceases to be registered and the registrar shall strike the name of the person from the register.
- Restoration
- (9) The council may restore the registration of any person whose certificate has been suspended or cancelled under this section upon such terms and conditions as it considers proper. R.S.O. 1970, c. 480, s. 13 (4-9), *revised*.
- Evidence of  
registration
- 14.**—(1) In every case where registration is in issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his capacity as registrar is *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar.
- Idem
- (2) The absence of the name of any person from such copy is *prima facie* evidence that such person is not registered. R.S.O. 1970, c. 480, s. 14.

**15.** No person shall conduct any course in veterinary science without the written authorization of the Minister, and an authorization shall not be issued until he is satisfied that the requirements of admission and courses of study and instruction are at least equal in standard to those of the Ontario Veterinary College. R.S.O. 1970, c. 480, s. 15. Courses in veterinary science

**16.** No person, other than a graduate in veterinary science of a college or university that is recognized by resolution of the council, shall use the title "Veterinary", "Veterinarian", "Veterinary Surgeon" or append to his name any such title or any abbreviation thereof. R.S.O. 1970, c. 480, s. 16. Use of titles restricted

**17.** No action shall be brought against a member for negligence or malpractice by reason of professional services requested of or rendered by him unless the action is commenced within six months after the matter complained of terminated. R.S.O. 1970, c. 480, s. 17. Limitations of actions

**18.** Any member is entitled to professional witness fees in attending any court of law in such cases as relate to veterinary science or the health or condition of any animal. R.S.O. 1970, c. 480, s. 18. Witness fees

**19.—(1)** Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable, for the first offence, to a fine of not less than \$100 and not more than \$200 or, for any subsequent offence, to a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than three months, or to both. Offences

**(2)** Any fine recovered for an offence under this Act is payable to the Association. R.S.O. 1970, c. 480, s. 19. Disposition of fines



## CHAPTER 523

## Vexatious Proceedings Act

1.—(1) Where upon an application made by way of originating notice according to the practice of the court and with the consent in writing of the Attorney General a judge of the Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Supreme Court or in any other court against the same person or against different persons, the judge may order that no legal proceedings shall, without leave of the Supreme Court or a judge thereof, be instituted in any court by the person taking such vexatious legal proceedings, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

Procedure  
to prevent  
bringing of  
vexatious  
proceedings

(2) The Attorney General has the right to appear and be heard in person or by counsel upon any application under subsection (1).

Attorney  
General may  
be heard

(3) A copy of an order made under this section shall be published in *The Ontario Gazette*. R.S.O. 1970, c. 481, s. 1; 1972, c. 1, s. 9 (7).

Publication  
of order





## CHAPTER 524

## Vital Statistics Act

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

- (a) "birth" means the complete expulsion or extraction from its mother of a foetus that did at any time after being completely expelled or extracted from the mother breathe or show any other sign of life, whether or not the umbilical cord was cut or the placenta attached;
- (b) "cemetery" includes a vault, a mausoleum and any land that is set apart or used for the interment of the dead or in which bodies are buried;
- (c) "cemetery owner" includes the person who is in charge of a cemetery or crematorium under the authority of the owner thereof;
- (d) "certificate" means a certified extract of the prescribed particulars of a registration in the records of the Registrar General;
- (e) "cremation" means the disposal of a dead body by incineration under the *Cemeteries Act*;
- (f) "Deputy Registrar General" means the Deputy Registrar General appointed under this Act;
- (g) "division registrar" means a division registrar appointed under this Act and includes a superintendent of an Indian agency;
- (h) "divorce" means dissolution and annulment of marriage and includes nullity of marriage;
- (i) "error" means any incorrect information and includes omission of information;
- (j) "funeral director" means a person who takes charge of the body of a still-born child or a deceased person for the purpose of burial, cremation or other disposition;

R.S.O. 1980,  
c. 59

R.S.C. 1970,  
c. I-6

- (k) "incapable" means unable through death, illness, absence from Ontario or otherwise;
- (l) "Indian" means an Indian within the meaning of the *Indian Act* (Canada) but does not include an enfranchised Indian;
- (m) "inspector" means an inspector of vital statistics appointed for the purposes of this Act;
- (n) "municipality" means a city, town, village, organized township or improvement district;
- (o) "notation" means any addition to, or alteration of, a registration in the records of the Registrar General or a division registrar;
- (p) "nurse" includes any person, other than a legally qualified medical practitioner, who attends at the birth of a child;
- (q) "occupier" includes a governor, keeper, warden, superintendent, manager or resident physician of any correctional institution, penitentiary or other place of detention, a children's home or orphanage, a public or private medical, surgical, maternity or mental hospital, or any public or private charitable institution, a manager of a hotel, and a keeper of a house for public accommodation, a tourist camp or other stopping-place for persons;
- (r) "prescribed form" means the form prescribed by the regulations;
- (s) "Registrar General" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act is assigned;
- (t) "religious body" means a church or any religious denomination, sect, congregation or society;
- (u) "state" means any state or territory of the United States of America, or the District of Columbia;
- (v) "still-birth" means the complete expulsion or extraction from its mother of a product of conception either after the twentieth week of pregnancy or after the product of conception has attained the weight of 500 grams or more, and where after such expulsion or extraction there is no breathing, beating

of the heart, pulsation of the umbilical cord or movement of voluntary muscle;

- (w) "superintendent of an Indian agency" means a superintendent within the meaning of the *Indian Act* <sup>R.S.C. 1970, c. I-6</sup> (Canada). R.S.O. 1970, c. 483, s. 1; 1973, c. 114, s. 1; O. Reg. 171/72, *part.*

#### ADMINISTRATION

**2.—**(1) The Registrar General shall direct a uniform <sup>Uniform system of registration</sup> system of registration of births, marriages, deaths, still-births, adoptions, divorces and changes of name in Ontario, and is charged with the enforcement of the provisions of this Act.

(2) The Registrar General shall cause the registrations of <sup>Registrations to be numbered by Registrar General</sup> births, marriages, deaths, still-births, adoptions, divorces and changes of name occurring in Ontario and received in his office to be numbered in seven separate series and otherwise systematically filed according to each calendar year in accordance with the regulations and carefully kept in vaults provided for that purpose.

(3) The Registrar General shall cause the registrations to <sup>Indexing</sup> be indexed separately according to each calendar year, and each index shall contain the numbers and such other particulars of the registrations as may be prescribed by the regulations. R.S.O. 1970, c. 483, s. 2.

**3.—**(1) The Registrar General shall examine the regis- <sup>Examination of registrations</sup> trations received from the division registrars and, if the registrations are incomplete or unsatisfactory, he shall require such information to be supplied as may be necessary to complete the registration.

(2) Where it is found upon examination that any regis- <sup>Registrations not signed</sup> tration received from a division registrar is incomplete as to the required signatures, the Registrar General shall cause the registration to be returned by registered mail to the proper division registrar in order that the signatures may be obtained. R.S.O. 1970, c. 483, s. 3 (1, 2).

(3) The Registrar General shall cause all deaths registered <sup>Classification by International List of Causes of Death</sup> under this Act to be classified according to the International List of Causes of Death as revised at the last decennial revision thereof by the International Commission assembled for that purpose. 1973, c. 114, s. 2.

Publication  
by Registrar  
General

(4) The Registrar General may collate, publish and distribute such statistical information regarding the births, marriages, deaths, still-births, adoptions, divorces and changes of name registered during any period as he may consider to be necessary and in the public interest. R.S.O. 1970, c. 483, s. 3 (4).

Annual  
report

(5) The Registrar General shall, after the close of each calendar year, submit to the Lieutenant Governor in Council a report as to the number of births, marriages, deaths, still-births, adoptions, divorces and changes of names registered during the preceding calendar year and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 58, *part*.

Instructions  
by Registrar  
General

(6) The Registrar General shall prepare and issue to every division registrar such detailed instructions as may be required to procure the uniform observance of the provisions of this Act. R.S.O. 1970, c. 483, s. 3 (7).

Deputy  
Registrar  
General

4.—(1) There shall be a Deputy Registrar General appointed by the Lieutenant Governor in Council who shall have direct supervision of the office of the Registrar General and be responsible to the Registrar General for the conduct of his office and who shall perform such other duties as may be prescribed by the regulations or delegated to him by the Registrar General.

Appointment  
and duties  
of inspectors

(2) The Lieutenant Governor in Council may appoint inspectors of vital statistics for the purpose of this Act who shall perform such duties as may be prescribed by the regulations. R.S.O. 1970, c. 483, s. 4.

#### REGISTRATION OF BIRTHS

Duty of  
medical  
practitioners

5.—(1) Every legally qualified medical practitioner who attends at the birth within Ontario of a child shall give notice of the birth.

Duty of  
nurse

(2) Where no legally qualified medical practitioner is in attendance at the birth, the nurse in attendance shall give the notice of the birth.

Mode of  
giving  
notice

(3) The notice of the birth shall be in the prescribed form and shall be given by delivering or mailing the notice within two days after the day of birth to the division registrar of the registration division within which the child was born.



(4) The notice so given shall be transmitted by the division registrar to the Registrar General and preserved by the Registrar General until such time as the registration of the birth has been completed under this Act. R.S.O. 1970, c. 483, s. 5. Notice to be preserved

**6.**—(1) Within thirty days after the day of the birth within Ontario of a child, Statement of birth

(a) the mother;

(b) if the mother is incapable, the father; or

(c) if the mother and father are incapable, the person standing in the place of the parents of the child,

shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born, but the Registrar General may accept the statement of the father although the mother is not incapable. R.S.O. 1970, c. 483, s. 6 (1).

(2) Notwithstanding subsection (1), the father of a child born outside marriage is not required to register the birth of the child. R.S.O. 1970, c. 483, s. 6 (2); 1977, c. 41, s. 23 (1). Exception

(3) The statement shall state whether the mother of the child is single, married, widowed or divorced, but shall not state whether the parents of the child are married to each other. Contents of statement

(4) Except as provided in subsection (5), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child. Birth of child to married woman

(5) Where a married woman to whom a child is born files with the division registrar a statutory declaration in the prescribed form, Further alternative procedure in certain cases

(a) that when the child was conceived she was living separate and apart from her husband; and

(b) that her husband is not the father of the child,

no particulars of the father shall be given in the statement mentioned in subsection (1), unless the mother and a person who acknowledges himself to be the father of the child both so request in writing in the prescribed form, in which case the particulars of the person so acknowledging

may be given as the particulars of the father, or the birth may be registered showing the surname of the person so acknowledging as the surname of the child, or both. R.S.O. 1970, c. 483, s. 6 (3-5).

Amendment  
of registra-  
tion

(6) If the request referred to in subsection (5) is made after the registration of the birth, the Registrar General shall upon payment of the prescribed fee amend the registration in accordance with the request. 1973, c. 114, s. 3 (1).

Birth of  
child to  
unmarried  
woman

(7) Except as provided in subsection (8), the birth of a child of an unmarried woman shall be registered showing the surname of the mother as the surname of the child, and no particulars of the father shall be given.

Where  
father  
acknow-  
ledged

(8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father by statutory declaration in the prescribed form so request, the particulars of the person so acknowledging shall be given as the particulars of the father and the birth shall be registered showing the surname of the person so acknowledging as the surname of the child. R.S.O. 1970, c. 483, s. 6 (7, 8).

Amendment  
of registra-  
tion

(9) The statutory declaration mentioned in subsection (8) shall be filed by the mother with the division registrar or, if the declaration is made after the registration of the birth, with the Registrar General, and in the latter case the Registrar General shall upon payment of the prescribed fee amend the registration in accordance with such declaration. 1973, c. 114, s. 3 (2).

Plural  
births

(10) If more than one child is delivered from the mother during a single confinement, a separate statement for each child shall be completed, certified and delivered or mailed as provided in subsection (1), and in each statement the number of children born during the confinement and the number in the order of birth shall be given. R.S.O. 1970, c. 483, s. 6 (10).

Registra-  
tion of  
double  
surname

(11) Upon the joint request in the prescribed form of the mother and the husband referred to in subsection (4) or of the mother and person acknowledging himself to be the father under subsection (5) or (8), the birth of a child may be registered,

(a) where the registration is under subsection (4), showing the surname of the husband hyphenated or

combined with the surname of the mother as the surname of the child; or

- (b) where the registration is made under subsection (5) or (8) or amended under subsection (6) or (9), showing the surname of the person acknowledging himself to be the father, hyphenated or combined with the surname of the mother as the surname of the child. 1976, c. 40, s. 1; 1978, c. 81, s. 1 (1, 2).

(12) Where a joint request is made under subsection (11) and a registration is made showing the surname of the husband or father, as the case may be, hyphenated or combined with the surname of the mother, the births of all children born to the persons making the joint application subsequent to the registration shall be registered in the surname given to the child whose birth was registered pursuant to the request under subsection (11).

Registration  
of births  
after  
subs. (11)  
request

(13) Where a joint request is made under subsection (11) in respect of a registration of birth made before the 1st day of February, 1979, the Registrar General shall amend the registration in accordance with the joint request. 1978, c. 81, s. 1 (3).

Amendment  
of prior  
registration

7. If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6, every person upon whom the duty of completing, certifying and delivering or mailing the statement is imposed by section 6 remains liable to perform that duty notwithstanding the expiration of the time so provided, and is, in respect of each successive period of thirty days thereafter during which he neglects so to complete, certify and deliver or mail the statement, guilty of a contravention of this Act. R.S.O. 1970, c. 483, s. 7.

Contra-  
vention

8.—(1) If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6,

Statement  
of birth  
when parents  
fail to supply  
statement

- (a) the occupier of the premises in which the child was born, if he has knowledge of the birth; or
- (b) a nurse present at the birth,

shall, upon being required so to do by the Registrar General, complete, certify and deliver or mail the statement to the division registrar of the registration division within which the child was born.

Contra-  
vention

(2) Every person who has knowledge of the birth and who neglects to complete, certify and deliver or mail the statement respecting the birth of a child upon being required so to do under subsection (1) is guilty of a contravention of this Act. R.S.O. 1970, c. 483, s. 8.

Registration  
of birth

9.—(1) Upon receipt, within one year from the day of the birth of a child, of a statement in the prescribed form respecting the birth, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

Not to  
register after  
one year

(2) A division registrar shall not register a birth after one year from the day of the birth. R.S.O. 1970, c. 483, s. 9.

Registration  
of birth by  
Registrar  
General

10.—(1) If the birth of a child has not been registered within one year from the day of the birth, application for the registration of the birth may be made to the Registrar General by the person whose birth has not been registered or by any other person.

Method of  
application  
for regis-  
tration

(2) The application shall be accompanied by,

- (a) the prescribed fee;
- (b) a statement in the prescribed form, completed and certified by the applicant or any other person;
- (c) a statutory declaration in the prescribed form by the applicant or any other person; and
- (d) such other evidence as may be prescribed by the regulations.

Registration

(3) If the Registrar General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, and that the regulations have been complied with, he may register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.S.O. 1970, c. 483, s. 10.

Foundlings

11.—(1) If a living new-born child is found deserted, the person who finds the child and any person in whose charge the child is placed shall give to the best of his knowledge and belief to the division registrar of the registration division within which the child is found, within seven days after the finding or taking charge of the child, such information concerning the birth of the child as the informant may possess.



(2) The division registrar, upon receipt of such information regarding the birth of the child and upon being satisfied that every effort has been made to identify the child without success, shall,

Duties of  
division  
registrar

- (a) cause the person who found or has charge of the child to complete a statutory declaration concerning the facts of the finding of the child and to complete and certify, so far as the person is able, a statement in the prescribed form required under subsection 6 (1);
- (b) cause the child to be examined by the local medical officer of health or a legally qualified medical practitioner with a view to determining as nearly as possible the day of the birth of the child, and the examiner shall make a statutory declaration setting forth the facts as determined by the examination; and
- (c) make a detailed report of the case and transmit the report to the Registrar General together with evidence regarding the birth of the child.

(3) A legally qualified medical practitioner shall receive a fee of \$5 for the examination under clause (2) (b), which fee shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund.

Fee

(4) The Registrar General, upon receipt of the evidence referred to in subsection (2), shall review the case and, upon being satisfied as to the correctness and sufficiency of the facts stated, shall register the birth and for the purpose of registration shall establish for the child,

Registration  
of birth of  
foundlings

- (a) a date of birth;
- (b) a place of birth; and
- (c) a surname and given name.

(5) If, subsequent to the registration, the identity of the child is established to the satisfaction of the Registrar General, he may by order set aside the registration made pursuant to this section and cause the substitution of a new registration of the birth in accordance with the actual facts of the birth, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed.

Subsequent  
registration  
if child  
identified

(6) Where the identity of the child is established and a new registration is made pursuant to subsection (5), the

Date of  
registration



date of the new registration shall be the date of the original registration.

Cancellation  
of certificates

(7) The holder of a certificate issued in respect of a registration of a birth made pursuant to subsection (4), which registration has been withdrawn pursuant to subsection (5), shall deliver it forthwith upon demand to the Registrar General for cancellation. R.S.O. 1970, c. 483, s. 11.

Registration  
where  
parents  
subsequently  
marry

**12.**—(1) Where after the birth of a child his parents intermarry and,

- (a) the parents of the child;
- (b) where one parent is dead or mentally incapable, the other parent of the child; or
- (c) where both parents are dead or mentally incapable,
  - (i) the guardian or person *in loco parentis* of the child, or
  - (ii) the child if he is of the age of eighteen years or more,

completes and certifies the statement required under subsection 6 (1), delivers the statement to the Registrar General together with such evidence as is required by the Registrar General and pays the prescribed fee, the Registrar General shall,

- (d) register the birth as if the parents had been married to each other at the time of the birth; and
- (e) make a notation on the statement that the registration was made under this section,

and the statement constitutes the registration of the birth. R.S.O. 1970, c. 483, s. 12 (1); 1971, c. 98, s. 4, Sched., par. 35; 1977, c. 41, s. 23 (2).

Original  
registration  
to be  
withdrawn

(2) Where the birth of the child has been registered before the marriage, the original registration shall be withdrawn from the registration files and shall be kept in a separate file and sealed. R.S.O. 1970, c. 483, s. 12 (2).

Alteration  
of given  
name of  
child

**13.**—(1) Where the birth of a child has been registered and,

- (a) the given name by which the child was registered has been changed; or

(b) the child was registered without a given name,

the Registrar General, upon payment of the prescribed fee and upon receipt of a statutory declaration containing such particulars as may be prescribed by the regulations as to the change or giving of the given name, completed by the father, mother or guardian of the child, or the person procuring the name to be changed or given, shall cause a notation of the alteration or addition to be made on the registration of the birth.

(2) Where the change of the given name is effected by baptism, a certificate of baptism signed by the person who performed the rite of baptism shall be filed with the statutory declaration. Baptismal certificate to be filed

(3) This section applies only where the given name of the child was changed or the new name given within ten years after the birth of the child. Application of section

(4) No notation shall be made in a registration regarding the given name of a child except in the manner prescribed in subsection (1), or under the provisions of this Act in respect of adopted children, changes of names and correction of errors. Limitation on alterations to given name

(5) Every notation made under this section shall be dated and initialled by the person making the notation. Notation to be dated and initialled

(6) If subsequent to the making of a notation under this section application is made for a birth certificate, the certificate shall be prepared as if the registration had been made containing the changed or new given name at the time of registration, but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made under subsection (1). R.S.O. 1970, c. 483, s. 13. Changes to be shown on certificate

#### REGISTRATION OF STILL-BIRTHS

**14.**—(1) In the case of a still-birth within Ontario, the person who, in the case of a birth, would have been required to furnish particulars of the birth under subsection 6 (1) shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body. Statement re still-births

(2) The legally qualified medical practitioner in attendance at a still-birth or, where there is no legally qualified Medical certificate

medical practitioner in attendance, a coroner shall complete a medical certificate in the prescribed form of the cause of the still-birth and shall deliver it to the funeral director in charge of the body.

Duty of  
funeral  
director

(3) Upon receipt of the statement and the medical certificate, the funeral director shall complete the statement setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body and shall deliver the statement and medical certificate to the division registrar of the proper registration division.

Registration  
of still-birth

(4) Upon receipt of the statement and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the still-birth by signing the statement and medical certificate and thereupon the statement and medical certificate constitute the registration of the still-birth.

Burial  
permit

(5) Upon the registration of a still-birth, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the person requiring the same for the purpose of the burial, cremation or other disposition or removal of the body of the still-born child,

(a) an acknowledgment that the still-birth has been registered; and

(b) a burial permit for the purpose of the burial or other disposition of the body.

Application  
of ss. 5-10, 12,  
17-23

(6) Subject to the provisions of this section, sections 5 to 10, 12 and 17 to 23 apply with necessary modifications to still-births. R.S.O. 1970, c. 483, s. 14.

#### REGISTRATION OF MARRIAGES

Marriages

**15.**—(1) Every marriage that is solemnized in Ontario shall be registered under this Act. R.S.O. 1970, c. 483, s. 15 (1).

Registration  
of marriage

(2) If an officer designated under clause 54 (*m*) is satisfied as to the correctness and sufficiency of a statement of marriage forwarded to the Registrar General under the regulations made under the *Marriage Act*, he shall register the marriage and upon the request of the person who solemnized the marriage, he shall mail an acknowledgment of receipt of the statement of marriage to such person. 1973, c. 114, s. 4, *revised*.

R.S.O. 1980,  
c. 256

**16.** If a marriage has not been registered within one year from the day of the marriage, the registration may be made by the Registrar General upon such evidence as may be prescribed by the regulations. R.S.O. 1970, c. 483, s. 16.

Registration  
of marriage  
by Registrar  
General

#### REGISTRATION OF DEATHS

**17.—**(1) The death of every person who dies within Ontario shall be registered in the office of the division registrar of the registration division within which the death occurs or, if the place of death is not known, then in the office of the division registrar of the registration division within which the body is found.

Place of  
registration  
of deaths

(2) A statement in the prescribed form containing personal particulars of the deceased person shall, upon the request of the funeral director in charge of the body, be completed, certified and delivered to the funeral director,

Information  
respecting  
deceased

- (a) by the nearest relative present at the death or last illness, or any relative who may be available;
- (b) if no relative is available, by the occupier of the premises in which the person died or, if the occupier is the person who has died, by any adult person residing in the premises who was present at the death or has knowledge of the personal particulars;
- (c) if the death occurred in unoccupied premises and no relative is available, by any adult person who was present at the death or has knowledge of the personal particulars; or
- (d) by the coroner who has been notified of the death and has made an investigation or held an inquest regarding the death. R.S.O. 1970, c. 483, s. 17 (1, 2).

(3) Subject to subsection (4), any legally qualified medical practitioner who has been in attendance during the last illness of a deceased person or who has sufficient knowledge of the last illness, shall forthwith after the death complete and sign a medical certificate of death in the prescribed form, stating therein the cause of death according to the International List of Causes of Death as last revised by the International Commission assembled for that purpose, and shall deliver the medical certificate to the funeral director or other person in charge of the body.

Medical  
certificate  
of death



Coroner's  
case  
R.S.O. 1980,  
c. 93

(4) In the case of a death of which the coroner is required to be notified under section 10 of the *Coroners Act*, the coroner notified shall, as soon as the cause of death is known, complete and sign a medical certificate of death in the prescribed form, stating therein the cause of death according to the International List of Causes of Death as last revised by the International Commission assembled for that purpose, and shall deliver the medical certificate to the funeral director in charge of the body.

Copying of  
death  
certificate

(5) No person shall make a copy or a duplicate of the medical certificate of death, nor shall any person receive a copy of the certificate, except as authorized by this or any other Act or the regulations made thereunder.

Duties of  
funeral  
director,  
etc.

(6) Upon receipt of the statement containing the personal particulars and the medical certificate of death, the funeral director shall complete the statement containing personal particulars, setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body, and shall deliver the statement and the medical certificate to the division registrar of the proper registration division. 1973, c. 114, s. 5.

Registration  
of death  
by division  
registrar

**18.—**(1) Upon the receipt, within one year from the day of the death of a person, of the statement containing the personal particulars and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the death by signing the statement and medical certificate, and thereupon the statement and medical certificate constitute the registration of the death.

Time  
limitation

(2) A division registrar shall not register any death after one year from the day of the death.

Duty of  
division  
registrar

(3) Upon the registration of a death, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the funeral director requiring the same for the purpose of the burial, cremation or other disposition or the removal of the body of the deceased person,

(a) an acknowledgment that the death has been registered; and

(b) a burial permit for the purpose of the burial or other disposition of the body. R.S.O. 1970, c. 483, s. 18.



**19.**—(1) If a death has occurred and it is impracticable to register it, by reason of distance, with the division registrar of the proper registration division, registration of the death may be made with the nearest division registrar who, upon payment of the prescribed fee, shall register the death and issue an acknowledgment of registration of death and a burial permit.

Registration  
in another  
registration  
division

(2) Where a death has been registered in accordance with subsection (1), the division registrar who registers the death is entitled to the fee for his own use. R.S.O. 1970, c. 483, s. 19.

Fee for  
registration  
in another  
division

**20.**—(1) If there is reason to believe that a person has died as a result of violence or misadventure or by unfair means or from any cause other than disease, or as a result of negligence, malpractice or misconduct on the part of others or under such circumstances as require investigation, no acknowledgment of registration of death and no burial permit shall be issued by the division registrar unless,

Death by  
violence or  
misadventure

(a) the body has been examined by a coroner and the coroner has made inquiry into the circumstances of the death or held an inquest as provided by the *Coroners Act*;

R.S.O. 1980,  
c. 93

(b) the coroner has signed the medical certificate of death; and

(c) the other provisions of this Act regarding registration of death have been complied with. R.S.O. 1970, c. 483, s. 20 (1).

(2) Where a person has died under any of the circumstances mentioned in subsection (1) and it is impracticable for the coroner to complete a medical certificate of the cause of death, he may issue his warrant to bury when he has examined the body as provided in the *Coroners Act*, and the division registrar shall issue a burial permit on the delivery to him of the warrant to bury and the statement of death and the coroner shall, as soon as the cause of death is known, complete and deliver or mail the medical certificate of death to the Registrar General. 1973, c. 114, s. 6.

Coroner's  
warrant  
to bury

**21.**—(1) Subject to subsection 20 (2), no person shall bury, cremate or otherwise dispose of the body of any person who dies within Ontario or remove the body from the registration division within which the death occurred or the body is found, and no person shall take part in or conduct any funeral or religious service

Registration  
before  
disposition  
of body

for the purpose of burial, cremation or other disposition of the body of a deceased person, unless the death has been registered under this Act and an acknowledgment of registration of death and a burial permit has been obtained from the division registrar.

Acknowledgment to be retained by funeral director

(2) The funeral director shall retain the acknowledgment of registration of death as evidence of his having complied with this Act.

Person not to conduct service unless burial permit produced

(3) No person shall conduct a funeral or other religious burial service unless the burial permit signed by the proper division registrar is produced to him.

Delivery of burial permit

(4) A cemetery owner shall not permit the interment or cremation of the body of any person in the cemetery or crematorium unless the burial permit is delivered to him.

Cemetery owner to retain burial permit

(5) The cemetery owner shall retain the burial permit for a period of at least two years after the burial.

Where no person in charge of cemetery

(6) Where no person is in charge of the cemetery at the time of the burial or other disposition of the body, the funeral director shall write across the face of the burial permit the words "No person in charge" and shall append his signature thereto and return the burial permit to the division registrar of the registration division in which the burial or other disposition took place. R.S.O. 1970, c. 483, s. 21.

Removal of bodies

**22.**—(1) If the body of a person is to be removed to the place of burial or other disposition by a transportation company or other common carrier, the removal shall not take place until the burial permit has been affixed to the outside of the casket.

Death outside Ontario

(2) If the death occurred outside of Ontario and the burial or other disposition of the body is to take place in Ontario, a burial, transit or removal permit or such other document as may be prescribed or required under the laws of the jurisdiction in which the death occurred, signed by the proper officer of the place in which the death occurred, is sufficient authority for the burial or other disposition of the body. R.S.O. 1970, c. 483, s. 22.

Registration of death by Registrar General

**23.**—(1) If the death of a person has not been registered within one year from the day of the death, application for registration of the death may be made to the Registrar General in the prescribed form.

(2) The application shall be accompanied by,

Method of  
application  
for regis-  
tration

- (a) the prescribed fee;
- (b) the statement provided for in subsection 17 (2), completed and certified;
- (c) a statutory declaration in the prescribed form by the applicant or any other person; and
- (d) such other evidence as may be prescribed by the regulations.

(3) If the Registrar General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, he may register the death by signing the statement, and thereupon the statement constitutes the registration of the death. R.S.O. 1970, c. 483, s. 23.

Registration  
of death

#### ADOPTION ORDERS

**24.**—(1) Upon receipt of a certified copy of an adoption order transmitted under subsection 80 (2) of the *Child Welfare Act*, or any predecessor thereof, or a certified copy of an order, judgment or decree of adoption made by a court of competent jurisdiction of another province or territory of Canada or of a foreign state, issued under the seal of the proper certifying authority, the Registrar General shall register the order, judgment or decree.

Registration  
of adoption  
orders  
R.S.O. 1980,  
c. 66

(2) If the birth of the person adopted,

Change in  
birth  
registration

- (a) was registered in Ontario before the adoption;  
or
- (b) is registered in Ontario after the adoption in accordance with this Act,

the Registrar General, upon production of evidence satisfactory to him of the identity of the person together with an application for the registration of the birth in the prescribed form, may by order set aside any registration made under section 9, 10, 11 or 12 or to this section and cause the substitution of a new registration of the birth in accordance with the facts contained in the adoption order, judgment or decree as if the adopted person had

on the date and in the place of birth recorded in the original registration been born in lawful wedlock to the adopting parent, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed, but in every such case, whether or not such an application is made, the Registrar General shall cause a notation of the adoption and of any change of name consequent thereon with a reference to the registration of the order to be made upon the original registration of the birth of the person, and shall cause a reference to the original registration of the birth to be endorsed on the copy of the order, judgment or decree.

Idem (3) Where a new registration is made pursuant to subsection (2), the date of the new registration shall be the date of the original registration.

Birth certificate (4) Where a new registration has been made pursuant to subsection (2) and application is made for a birth certificate, the certificate shall be issued in accordance with the new registration.

Idem (5) The holder of a birth certificate in respect of a registration of a birth that has been withdrawn pursuant to subsection (2) shall, forthwith upon demand by the Registrar General, deliver it to the Registrar General for cancellation. R.S.O. 1970, c. 483, s. 24.

Child born in another province or state  
R.S.O. 1980, c. 66

**25.**—(1) If a child born in another province or in any state has been adopted in Ontario under the *Child Welfare Act*, the Registrar General shall transmit a certified copy of the order to the person having charge of the registration of births in the province or state in which the child was born.

Child born in another jurisdiction

(2) If a child born in a jurisdiction other than a province or state has been adopted in Ontario under the *Child Welfare Act*, the Registrar General, upon request, may transmit a certified copy of the order to the person having charge of the registration of births in the jurisdiction in which the child was born. R.S.O. 1970, c. 483, s. 25.

#### CHANGES OF NAMES

Registration of change of name

**26.**—(1) Upon receipt of a document that satisfies the Registrar General that the name of a person whose birth or marriage is registered in Ontario has been changed in accordance with the law of the province or territory of



Canada or of the foreign state in which the document was made, the Registrar General shall register the document and note the change of name on the birth or marriage registration of the person.

(2) Where a change of name has been noted on a birth or marriage registration and application is made for a birth or marriage certificate, the certificate shall be issued as if the registration had been made in the name as changed. Certificate after change of name

(3) Upon receipt of a document that satisfies the Registrar General that a document effecting a change of name has been annulled in accordance with the law of the province or territory of Canada or of the foreign state in which such documents were made, the Registrar General shall register the document and note the annulment on the birth or marriage registration of the person and on the document effecting the change of name. Registration of annulment of change of name

(4) Every notation made under this section shall be dated and initialled by an officer designated by the regulations. R.S.O. 1970, c. 483, s. 26. Notation to be dated and initialled

#### DIVORCE DECREES

**27.**—(1) The Registrar of the Supreme Court and every local registrar of the Supreme Court shall, from time to time, as prescribed by the regulations, furnish to the Registrar General a statement in the prescribed form respecting each final decree of divorce entered by him in the Supreme Court. Statement by registrar respecting divorce decrees

(2) If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar General, the Registrar General, upon receipt of the statement of the divorce, shall register the statement. Registration of statement

(3) No certificate of divorce shall be issued by the Registrar General. R.S.O. 1970, c. 483, s. 27. Certificates prohibited

#### REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON BOARD SHIP

**28.** Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act*, respecting the birth of a child or the death of a person on board a ship whose port of registry is within Ontario, the Births and deaths on board ship  
R.S.C. 1970,  
c. S-9



Deputy Registrar General may register the birth or death. R.S.O. 1970, c. 483, s. 28.

#### CHURCH RECORDS

Filing of  
church  
records

**29.**—(1) Any cemetery company or association, or any religious body or historical society or association, or any corporation or individual, in possession of any record of births, marriages, baptisms or deaths that may be of value in establishing the genealogy of any resident in Ontario, may, with the approval of the Registrar General, deposit the record with the Registrar General without charge.

Records to  
be preserved

(2) Upon being deposited, the records shall be preserved and remain in the custody of the Registrar General as part of the records of his office. R.S.O. 1970, c. 483, s. 29.

#### CORRECTION OF ERRORS IN REGISTRATIONS

Corrections  
by division  
registrar

**30.**—(1) If, while the registration of any birth, death or still-birth is in the possession of a division registrar, it is reported to him that an error has been made in the registration, he shall inquire into the facts and, if he is satisfied that an error has been made in the registration, he may correct the error according to the facts by a notation on the registration without any alteration being made in the registration.

Correction  
by personal  
appearance

(2) If the person originally supplying the information contained in a registration to be corrected appears in person, the division registrar may permit correction in the original entry.

Correction  
by Registrar  
General

(3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error has been made, the Registrar General shall inquire into the facts and, upon the production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may correct the error by a notation on the registration without any alteration being made in the registration.

Certificate of  
registration  
that has been  
corrected

(4) If, subsequent to the correction of an error, application is made for a certificate pursuant to this Act, the certificate shall be prepared as if the registration had been made containing correct particulars at the time of registration,

but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made under subsection (1) or (3).

(5) Every notation made under this section shall be dated and initialled by the person making the correction or the officer designated by the regulations. Notation on registration R.S.O. 1970, c. 483, s. 30.

**31.**—(1) If, after a registration of birth has been received Substitute registrations or made by the Registrar General, it appears or is reported to him that, because of incorrect information in the registration, the registration does not comply with the requirements of subsections 6 (4) and (7), the Registrar General shall inquire into the facts and, upon production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may, instead of correcting the error under section 30, order that the registration be cancelled and that a new registration of the birth be made.

(2) Where an order is made under subsection (1), the Registrar General shall attach the order to, and cause a Order to be attached to registration notation of the order to be made on, the existing registration, and the existing registration and order shall be kept in a separate file and sealed.

(3) Where a substituted registration of birth is made Certificates and certified copies and an application is made for a birth certificate or certified copy of registration in respect of the birth, the certificate or certified copy shall be issued having regard to the substituted registration only. R.S.O. 1970, c. 483, s. 31.

#### CHANGES RESULTING FROM TRANSSEXUAL SURGERY

**32.**—(1) Where the anatomical sex structure of a person is changed to a sex other than that which appears on the registration of birth, the person may apply to the Registrar General to have the designation of sex on the registration of birth changed so that the designation will be consistent with the results of the transsexual surgery. Changing sex designation appearing on registration of birth

(2) An application made under subsection (1) shall be accompanied by, Application

(a) a certificate signed by a medical practitioner legally qualified to practise medicine in the jurisdiction in

which the transsexual surgery was performed upon the applicant, certifying that,

- (i) he performed transsexual surgery on the applicant, and
  - (ii) as a result of the transsexual surgery, the designation of sex of the applicant should be changed on the registration of birth of the applicant;
- (b) a certificate of a medical practitioner who did not perform the transsexual surgery but who is qualified and licensed to practise medicine in Ontario certifying that,
- (i) he has examined the applicant,
  - (ii) the results of the examination substantiate that transsexual surgery was performed upon the applicant, and
  - (iii) as a result of the transsexual surgery, the description of the sex of the applicant should be changed on the registration of birth of the applicant; and
- (c) evidence satisfactory to the Registrar General as to the identity of the applicant.

Alternate  
medical  
evidence

(3) Where it is not possible to obtain the medical certificate referred to in clause (2) (a), the applicant shall submit such medical evidence of the transsexual surgery as the Registrar General considers necessary.

Notation on  
birth  
registration  
to be  
consistent  
with result  
of surgery

(4) The Registrar General shall, upon application made to him in accordance with this section, cause a notation to be made on the birth registration of the applicant so that the registration is consistent with the results of the surgery.

Birth  
certificate  
issued after  
notation

(5) Every birth certificate issued after the making of a notation under this section shall be issued as if the original registration of birth had been made showing the designation of sex as changed under this section. 1978, c. 81, s. 2.

#### REGISTRATION DIVISIONS

Registration  
divisions

**33.**—(1) The whole of Ontario shall be divided into registration divisions.

(2) Every municipality is a registration division.

Municipal  
units

(3) The Lieutenant Governor in Council may divide that part of Ontario not within a municipality into registration divisions, and may from time to time extend, reduce, subdivide or annul any such registration division or merge it in whole or in part with one or more registration divisions and may attach any territory or portion thereof not being part of a municipality to a registration division constituted under subsection (2). R.S.O. 1970, c. 483, s. 32.

Unorganized  
territory

#### APPOINTMENT AND DUTIES OF DIVISION REGISTRARS

**34.**—(1) The clerk of every municipality is *ex officio* division registrar of the registration division formed by the municipality and any territory thereto attached unless the Lieutenant Governor in Council appoints some other person as a division registrar in his stead.

Municipal  
clerks to be  
division  
registrars

(2) The Lieutenant Governor in Council may appoint the division registrar for a registration division that is formed of territory not within a municipality or attached to a municipality.

Appointment  
of division  
registrar in  
unorganized  
territory

(3) The division registrar has power to take the affidavit or statutory declaration of any person for the purposes of this Act.

Power  
to take  
affidavits

(4) A division registrar may, with the approval of the Registrar General, appoint one or more deputy division registrars to act for him and any such deputy while so acting has all the powers and duties of the division registrar who appointed him.

Deputy  
division  
registrars

(5) A division registrar may, with the approval of the Registrar General, appoint sub-registrars for the special purpose of issuing burial permits upon the delivery of a completed statement of personal particulars and medical certificate and upon payment of a special fee of 25 cents.

Sub-  
registrars

(6) A sub-registrar shall forthwith transmit the statement of personal particulars and the medical certificate to the division registrar by whom he was appointed. R.S.O. 1970, c. 483, s. 33.

Sub-  
registrar to  
forward  
documents

**35.** The division registrar shall,

Duties of  
division  
registrar

(a) receive and sign statements and registrations and issue burial permits;



- (b) supply, free of charge, any prescribed form required by any person in order to comply with this Act;
- (c) keep all registrations, records, notices and documents received by him in a place of safety;
- (d) use all available means to obtain the necessary information for the purpose of completing the registrations required to be made by him;
- (e) inform the proper person of the duty to furnish him with particulars for the registration of a birth, death or still-birth if he has reason to believe that any has taken place within his division and has not been registered, and, on the failure of the person to make the registration within seven days, supply to the Registrar General such information as he has in his possession regarding the failure of any person to furnish the required particulars;
- (f) examine every statement of birth, death or still-birth in order to ascertain whether or not it has been completed in the prescribed form;
- (g) ensure that every registration of birth, death or still-birth has been written legibly in durable ink;
- (h) refuse to accept any statement that does not contain all the items of information required therein unless he has received a satisfactory explanation for the omission;
- (i) call attention to any defects in a statement of personal particulars or medical certificate of death that is incomplete or unsatisfactory, and withhold the issuance of the acknowledgment of registration of death and the burial permit until the defects have been corrected;
- (j) sign every registration as division registrar in attestation of the date of registration in his office;
- (k) number consecutively the registrations of births, deaths and still-births in separate series beginning with "No. 1" for the first registration of a birth, death or still-birth in each calendar year;



- (l) transmit to the Registrar General as required by the regulations the registration of every birth, death and still-birth made by him;
- (m) report the fact to the Registrar General, in the prescribed form, if no birth, death or still-birth has been registered;
- (n) keep such records as may be prescribed by the regulations;
- (o) transmit to the proper division registrar within forty-eight hours every statement of birth received by him that did not occur within his registration division; and
- (p) transmit to the proper division registrar within forty-eight hours notice of every registration of death or still-birth made by him that did not occur within his registration division. R.S.O. 1970, c. 483, s. 34.

**36.** Every division registrar shall, under the direction of the Registrar General, enforce this Act in his registration division and shall make an immediate report to the Registrar General of any contravention of this Act of which he has knowledge. R.S.O. 1970, c. 483, s. 35.

Report to Registrar General of any contravention of Act

#### REMUNERATION OF DIVISION REGISTRAR

**37.—**(1) Every municipality shall pay annually, on the 1st day of February, to the division registrar, a remuneration of 25 cents for each registration of a birth, death or still-birth transmitted to the Registrar General during the preceding calendar year, on presentation of the certificate of the Registrar General to the treasurer of the municipality, but a municipality may by by-law with the approval of the Registrar General limit the aggregate remuneration of the division registrar or provide for the payment of a stated annual remuneration.

Remuneration of division registrar

(2) Remuneration at double the rates set forth in subsection (1) shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund to every superintendent of an Indian agency and to every division registrar appointed by the Lieutenant Governor in Council for any registration division not included in or attached to a municipality.

Remuneration in unorganized territory

(3) Nothing in this section prevents the remuneration of a division registrar being paid to him monthly, but in

Monthly remuneration permissible

that case the remuneration shall be paid within ten days of the presentation of the certificate of the Registrar General. R.S.O. 1970, c. 483, s. 36.

## FORMS

Registrar  
General to  
distribute  
forms

**38.**—(1) The Registrar General shall distribute the prescribed forms to the division registrars.

Cost of  
forms

(2) The cost of the prescribed forms and the distribution thereof shall be paid out of the Consolidated Revenue Fund.

No other  
forms to  
be used

(3) No forms shall be used for the purposes of this Act other than the prescribed forms supplied by the Registrar General. R.S.O. 1970, c. 483, s. 37.

## CERTIFICATES AND SEARCHES

Contents,  
of birth  
certificate

**39.**—(1) A birth certificate shall contain only the following particulars of the registration:

- (a) name of the child;
- (b) date of birth;
- (c) place of birth;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

of death  
certificate

(2) A death certificate shall contain only the following particulars of the registration:

- (a) name, age and marital status of the deceased;
- (b) date of death;
- (c) place of death;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

(3) A marriage certificate shall contain only the following particulars of the registration: of marriage certificate

- (a) names of the parties;
- (b) date of the marriage;
- (c) place of the marriage;
- (d) place of birth of each of the parties;
- (e) date of registration; and
- (f) registration number.

(4) No still-birth certificate shall be issued.

Still-birth certificate

(5) A certificate, order or other document, issued by the Registrar General pursuant to this Act, may bear the seal of office of the Registrar General. R.S.O. 1970, c. 483, s. 38. Certificates under seal

**40.**—(1) Upon application and upon payment of the prescribed fee, any person who furnishes substantially accurate particulars, and satisfies the Registrar General as to his reason for requiring it, may obtain from the Registrar General a birth certificate in respect of any birth of which there is a registration in his office. Who may obtain birth certificate

(2) Upon application and upon payment of the prescribed fee, any person may obtain from the Registrar General a death certificate in respect of any death of which there is a registration in his office. death certificate

(3) Upon application and upon payment of the prescribed fee, marriage certificate

- (a) one of the parties to the marriage;
- (b) a parent of one of the parties;
- (c) a child of the marriage; or
- (d) any person with the approval of the Registrar General,

may obtain from the Registrar General a marriage certificate in respect of any marriage of which there is a registration in his office. R.S.O. 1970, c. 483, s. 39.

Who may  
obtain copy  
of registra-  
tion of birth,  
death or  
still-birth

**41.**—(1) No certified copy of a registration of birth, death or still-birth shall be issued except to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee.

Who may  
obtain copy  
of registra-  
tion of  
marriage

(2) No certified copy of a registration of marriage shall be issued except to one of the parties to the marriage or to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee. R.S.O. 1970, c. 483, s. 40.

Admissibility  
in evidence of  
certificates,  
etc.

**42.** A certificate purporting to be issued under section 40 or a certified copy of a registration purporting to be issued under section 41 signed by the Registrar General or Deputy Registrar General or on which the signature of either of them is lithographed, printed or stamped is admissible in any court in Ontario as *prima facie* evidence of the facts so certified, and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed. R.S.O. 1970, c. 483, s. 41 (1).

No  
certificates  
by division  
registrar

**43.** A division registrar shall not issue a certificate in respect of any birth, death, marriage or still-birth. R.S.O. 1970, c. 483, s. 42.

Searches

**44.**—(1) Any person who,

(a) applies;

(b) pays the prescribed fee; and

(c) satisfies the Registrar General as to his reason for requiring it,

may have search made for the registration of any birth, death, marriage, still-birth, divorce, adoption or change of name in the indexes kept in the office of the Registrar General.

Search of  
church  
records

(2) Any person who,

(a) applies;

(b) pays the prescribed fee; and

(c) satisfies the Registrar General as to his reason for requiring it,

may have search made for any birth, marriage, baptism or death in any record kept in the office of the Registrar General pursuant to section 29.

(3) The only information given upon a search under subsection (1) or (2) shall be as to the existence or otherwise of the registration, and the registration number if registered. Information given on search  
R.S.O. 1970, c. 483, s. 43.

#### GENERAL PROVISIONS

**45.** Subject to section 28, no registration shall be made of a birth, still-birth, marriage or death occurring outside Ontario. Ontario registrations only  
R.S.O. 1970, c. 483, s. 44.

**46.** This Act applies in respect of any birth, marriage, death, still-birth, divorce, adoption or change of name that heretofore occurred or that hereafter occurs. Application of Act  
R.S.O. 1970, c. 483, s. 45.

**47.** No person shall issue any document that purports to be a certificate of a birth, marriage, death or still-birth other than a certificate provided for under this Act. Certificates not to be issued  
R.S.O. 1970, c. 483, s. 46.

**48.—(1)** If, after such notice to and the hearing of such interested parties as he considers proper, the Registrar General is satisfied that a registration was fraudulently or improperly obtained, he may order that a notation be made on the registration to that effect and thereafter no certificate shall be issued in respect of the registration. Registration unlawfully obtained

(2) Upon the making of an order under subsection (1), the Registrar General may require the delivery to him of every certificate previously issued in respect of the registration. Order for delivery of certificate

(3) If the Registrar General has reason to believe that a certificate in respect of a registration is being had or used for fraudulent or improper purposes, he may, after such notice to and the hearing of such interested parties as he considers proper, make an order requiring the delivery of the certificate to him. Certificate used improperly

(4) Any person who has in his possession or under his control a certificate in respect of which an order has been made under subsection (2) or (3) shall forthwith deliver the certificate to the Registrar General. Delivery of certificates  
R.S.O. 1970, c. 483, s. 47.

**49.—(1)** No division registrar, sub-registrar, funeral director or person employed in the service of Her Majesty shall communicate or allow to be communicated to any Secrecy



person not entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any records containing information obtained under this Act.

Statistics  
excepted

(2) Nothing in subsection (1) prohibits the furnishing and publication of information of a general statistical nature that does not disclose information about any individual person. R.S.O. 1970, c. 483, s. 48.

Registration  
by Registrar  
General

**50.**—(1) Where a statement of birth, still-birth or death is received for registration by the Registrar General directly instead of by the division registrar of the registration division within which the birth, still-birth or death, as the case may be, occurred, the Registrar General may, if he is satisfied as to the correctness and sufficiency of the statement, register the birth, still-birth or death by signing the statement, and thereupon the provisions of this Act relating to the registration of births, still-births and deaths apply with necessary modifications thereto.

Idem

(2) Where the Registrar General registers a birth, still-birth or death under subsection (1), he shall forward a copy of the statement of birth, still-birth or death, as the case may be, received by him for registration to the division registrar of the registration division within which the event occurred. R.S.O. 1970, c. 483, s. 49.

#### OFFENCES

Failure to  
give notice  
or furnish  
particulars

**51.**—(1) Every person who neglects or fails to give any notice, or to register or to furnish any statement, certificate or particulars respecting the birth, marriage, death, still-birth, divorce, adoption or change of name of any person as required by this Act, is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Neglect of  
division  
registrar  
to make  
returns

(2) If a division registrar fails to transmit to the Registrar General any registration or to make any return as required by this Act, he is guilty of an offence and on conviction is liable to a fine of not more than \$100, and each succeeding week's continuance of failure to make the transmission or return constitutes a new and distinct offence, and the Registrar General may refuse to issue a certificate for the payment of any fee due to the division registrar until the transmission or return is made. R.S.O. 1970, c. 483, s. 50.

False in-  
formation

**52.**—(1) Every person who wilfully makes or causes to be made a false statement in any notice, registration, statement, certificate, return or other document respecting any particulars

required to be furnished under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or to both; and every legally qualified medical practitioner who wilfully makes a false statement as to the cause of the death of any person, or represents himself as having been in attendance during the last illness of any person when in fact he was not called in attendance until after the death, is, in addition to any penalty imposed by this Act, subject to discipline by the Council of the College of Physicians and Surgeons of Ontario.

(2) Every person who wilfully makes or causes to be made a registration of a birth, marriage, death or still-birth as having occurred in Ontario in respect of any person whose birth, marriage, death or still-birth did not occur in Ontario is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 483, s. 51.

**53.** Any person contravening any of the provisions of section 49 is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 483, s. 52.

**54.** Every person guilty of any act or omission in contravention of this Act for which no penalty is otherwise provided is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 483, s. 53.

#### REGULATIONS

**55.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing the duties of the Deputy Registrar General and providing for the delegation to him of such of the powers and duties of the Registrar General as may be considered necessary;
- (c) prescribing the duties of inspectors;
- (d) prescribing the system of filing of registrations;
- (e) prescribing the particulars of registrations to be entered in the indexes;
- (f) prescribing the duties of and records to be kept by the division registrars;

- (g) prescribing the information and returns to be furnished to the Registrar General and fixing the times when information and returns are to be transmitted;
- (h) fixing the times when division registrars shall forward registrations to the Registrar General;
- (i) prescribing the duties of and returns to be made by sub-registrars;
- (j) designating the persons who may have access to or may be given information from the records in the Registrar General's office or in a division registrar's office, and prescribing an oath of secrecy to be taken by such persons;
- (k) for the registration of births, marriages, deaths, still-births, divorces, adoptions or changes of name in cases not otherwise provided for in this Act;
- (l) prescribing the fees to be paid for searches, certificates and anything done or permitted to be done under this Act and providing for the waiver of payment of any such fees in favour of any person or class of persons;
- (m) designating the officers who may sign registrations and notations;
- (n) prescribing the evidence on which the Registrar General may register a birth, still-birth, marriage or death after one year from the date thereof;
- (o) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the subsequent inter-marriage of his parents;
- (p) requiring the persons in charge of hospitals to make returns of the births of all children born in the hospitals;
- (q) prescribing special forms for registrations in respect of Indians;
- (r) providing that registrations in respect of Indians shall be kept separate from other registrations;

- (s) authorizing every superintendent of an Indian agency in Ontario to act *ex officio* as division registrar for the Indians under his jurisdiction;
- (t) for the purpose of effectively securing the due observance of the Act and generally for the better carrying out of the provisions thereof and obtaining the information required thereby. R.S.O. 1970, c. 483, s. 54.





## CHAPTER 525

## Vocational Rehabilitation Services Act

## 1. In this Act,

Interpre-  
tation

- (a) "Director" means the Director appointed for the purposes of this Act;
- (b) "disabled person" means a person who because of physical or mental impairment is incapable of pursuing regularly any substantially gainful occupation as determined by the regulations;
- (c) "Minister" means the Minister of Community and Social Services;
- (d) "regulations" means the regulations made under this Act;
- (e) "vocational rehabilitation services" means goods, allowances or services provided under the rehabilitation program established under section 5;
- (f) "workshop" means a place where any manufacture or handiwork is carried on and that is operated for the purpose of providing useful and remunerative employment and work training or work assessment under actual or simulated working conditions for vocationally handicapped persons. R.S.O. 1970, c. 484, s. 1; 1972, c. 1, s. 19 (3), *revised*.

2. The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Government of Canada or with any person or organization for the purpose of providing vocational rehabilitation services to disabled persons or in respect of the provision of such service. R.S.O. 1970, c. 484, s. 2.

3. The Lieutenant Governor in Council may approve any organization providing vocational rehabilitation services to which grants for capital purposes may be paid in accordance with the regulations. R.S.O. 1970, c. 484, s. 3.

Approval of  
organiza-  
tions for  
capital  
grants

Approval of  
workshops  
for capital  
grants

4. The Lieutenant Governor in Council may approve workshops for which grants for capital purposes may be paid in accordance with the regulations. R.S.O. 1970, c. 484, s. 4.

Rehabilita-  
tion  
program

5. A rehabilitation program shall be established to provide,

- (a) goods or services to enable a disabled person to become capable of pursuing regularly a substantially gainful occupation;
- (b) services for the assessment of the individual medical, social and psychological needs of a disabled person and for the formulation of the vocational rehabilitation services likely to be required to meet his needs;
- (c) rehabilitation counselling, including guidance and adjustment services, and assistance in obtaining, and succeeding in, a substantially gainful occupation;
- (d) for the payment of costs of assessment, training, prevocational training, work adjustment training and personal adjustment training, including books and training materials;
- (e) for the payment to disabled persons of maintenance allowances and travelling allowances, including travelling allowances for a disabled person's guide or escort, to the extent necessary to enable the disabled person to derive the full benefit of vocational rehabilitation services provided under this Act;
- (f) medical, surgical or psychiatric treatment or procedures related or directed thereto that may be expected within a reasonable period of time to eliminate or favourably modify any chronic, cyclical or slowly-progressive impairment that renders a person disabled;
- (g) appliances designed to support or take the place of a part of the body or to increase the acuity of a sensory organ;
- (h) necessary initial occupational and business tools, equipment, supplies and licences;
- (i) for the payment of grants,
  - (i) to approved organizations for the establishment and expansion of workshops and for other capital purposes, and

- (ii) to organizations for the operation of workshops and the provision of other vocational rehabilitation services;
- (j) for the training of persons as counsellors and administrators to carry out the rehabilitation program;
- (k) for research relating to vocational rehabilitation services and for the payment of grants to persons or organizations for this purpose; and
- (l) for such other matters and services as are prescribed by the regulations. R.S.O. 1970, c. 484, s. 5.

**6.** Any disabled person who is ordinarily resident in Ontario and who is eligible therefor as determined by the regulations may be provided with vocational rehabilitation services. R.S.O. 1970, c. 484, s. 6. Eligibility  
for services

**7.—**(1) There shall be a Director appointed by the Minister for the purposes of this Act who shall, Appointment  
and duties  
of Director

- (a) make known the rehabilitation program established under this Act to disabled persons and to any other interested person;
- (b) receive applications for vocational rehabilitation services and shall exercise such powers and perform such duties in relation thereto and in relation to such services provided under this Act as are conferred or imposed on him by this Act and the regulations;
- (c) carry out and administer the rehabilitation program established under this Act and foster, co-ordinate and improve the program of organizations or agencies providing vocational rehabilitation services;
- (d) enter into arrangements with such persons and organizations as may be necessary for the provision of services under this Act;
- (e) compile statistics and reports relating to the provision of vocational rehabilitation services or the need for such services under this Act; and
- (f) carry out such other duties as are assigned to him by this Act and the regulations. R.S.O. 1970, c. 484, s. 7 (1); 1971, c. 50, s. 86 (1); 1972, c. 1, s. 19 (3), *revised*.

Where  
Director  
absent

(2) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such person in the public service as the Minister may designate. R.S.O. 1970, c. 484, s. 7 (2).

Delegation  
of powers  
of Director

(3) The Director, with the consent in writing of the Deputy Minister of Community and Social Services, may authorize any employee or class of employee of the Ministry of Community and Social Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act. 1971, c. 50, s. 86 (2), *part*; 1972, c. 1, s. 19 (3).

Decision  
of person  
exercising  
power of  
Director

(4) Any decision, order or directive made or given by a person exercising powers and performing duties of the Director under subsection (2) or (3) shall be deemed to be a decision, order or directive of the Director for the purposes of this Act. 1971, c. 50, s. 86 (2), *part*.

Eligibility  
of applicant

8. The Director shall determine the eligibility of each applicant to receive vocational rehabilitation services and, where the applicant is eligible, determine the amount or nature of the services in accordance with this Act and the regulations and direct provision thereof accordingly. 1971, c. 50, s. 86 (3), *part*.

Suspension,  
etc., of  
services

9. The Director may suspend or cancel vocational rehabilitation services being provided for a disabled person where the disabled person,

- (a) ceases to be eligible for vocational rehabilitation services under this Act or the regulations;
- (b) fails to avail himself of vocational rehabilitation services authorized for him;
- (c) is not benefitting from the vocational rehabilitation services being provided for him;
- (d) is not making satisfactory progress towards rehabilitation;
- (e) fails to provide to the Director or his representative, including a field worker, the information required to determine initial or continuing eligibility to vocational rehabilitation services; or
- (f) fails to comply with any provision of this Act and the regulations. 1971, c. 50, s. 86 (3), *part*.



**10.**—(1) Sections 13, 14, 15, 16 and 18 of the *Family Benefits Act* and section 12 of the *Ministry of Community and Social Services Act* apply with necessary modifications to a refusal of an application for, or the reduction, suspension or cancellation of vocational rehabilitation services by the Director, to requests for hearings by, and to hearings, proceedings and powers of the Social Assistance Review Board under the *Ministry of Community and Social Services Act*, and to appeals therefrom to the Divisional Court, as if vocational rehabilitation services were benefits under the *Family Benefits Act*. 1974, c. 97, s. 1.

Application of  
R.S.O. 1980,  
cc. 151, 273

(2) Notwithstanding any decision of the Director, the Board or the Divisional Court, a further application for vocational rehabilitation services may be made by an applicant upon new or other evidence or where material circumstances have changed. 1971, c. 50, s. 86 (5).

Further  
application  
for services

**11.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) for determining substantially gainful occupations for the purposes of clause 1 (b);
- (b) specifying the organizations approved under section 3 and the workshops approved under section 4;
- (c) governing the amounts of allowances to be paid to disabled persons or any class thereof, and the manner and time of payment;
- (d) providing for the apportionment and distribution of grants to organizations approved under section 3 for the establishment and expansion of workshops approved under section 4 operated by such organizations and for other designated capital purposes, and prescribing the terms and conditions upon which grants shall be paid;
- (e) prescribing the eligibility of workshops and organizations for grants other than grants referred to in clause (d) and providing for the apportionment and distribution of grants to eligible organizations providing workshops or other vocational rehabilitation services or any class thereof, and prescribing the terms and conditions upon which grants shall be paid;
- (f) prescribing additional matters that shall be included in the rehabilitation program established under section 5;



- (g) prescribing the classes of disabled persons who are eligible for vocational rehabilitation services, and fixing standards of eligibility;
- (h) governing applications for vocational rehabilitation services;
- (i) prescribing additional duties of the Director;
- (j) establishing an advisory committee to advise the Minister respecting the provision and development of vocational rehabilitation services;
- (k) establishing a medical advisory board of one or more persons to advise the Director in the performance of his duties;
- (l) prescribing forms and providing for their use, and requiring the information in any form to be verified by affidavit. R.S.O. 1970, c. 484, s. 9; 1971, c. 50, s. 86 (6).

**Moneys**

**12.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 484, s. 10.

## CHAPTER 526

## Wages Act

1. In this Act, “wages” means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1970, c. 486, s. 1. Interpretation

2. Where an assignment of any real or personal property is made for the general benefit of creditors, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment or within one month before the making thereof, not exceeding three months wages, and such persons rank as ordinary or general creditors for the residue, if any, of their claims. R.S.O. 1970, c. 486, s. 2. Priority of wages or salaries in case of assignments for benefit creditors

3. All persons who, at the time of the seizure by the sheriff or who within one month prior thereto, were in the employment of the execution debtor, and who become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of the *Creditors' Relief Act* are entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months wages, in priority to the claims of the other creditors of the execution debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1970, c. 486, s. 3. Priority over execution creditors  
R.S.O. 1980, c. 103

4. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under the *Absconding Debtors Act*, or within one month prior thereto, are entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months wages, in priority to the claims of the other creditors of the debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1970, c. 486, s. 4. Priority in case of attachment  
R.S.O. 1980, c. 2

5. In the administration of the estate of a deceased person, any person in the employment of the deceased at the time of his death, or within one month prior thereto, who is entitled to share in the Priority in administration of estates

distribution of the estate, is entitled to his wages, not exceeding three months wages, in priority to the claims of the ordinary or general creditors of the deceased, and such person is entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1970, c. 486, s. 5.

When wages  
to be  
payable on  
distribution  
of estate

**6.—**(1) Wages in respect of which priority is conferred by this Act become due and are payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time the estate was received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

Ordinary  
expenses,  
meaning

(2) Ordinary expenses do not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

Protection  
of assignee,  
etc., paying  
claims for  
wages in  
good faith

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it in the end appears that the estate was insufficient to have justified such payment, if he acted in good faith and had reasonable grounds to believe that the estate would prove sufficient.

Joinder  
of claims

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. R.S.O. 1970, c. 486, s. 6.

Extent of  
exemption  
from  
seizure or  
attachment

**7.—**(1) Seventy per cent of any debt due or accruing due to any mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages is exempt from seizure or attachment, provided that if a creditor of any such mechanic, workman, labourer, servant, clerk or employee, who has initiated proceedings by way of seizure or attachment of the wages of any such mechanic, workman, labourer, servant, clerk or employee, desires to contend that having regard to the nature of the debt and the circumstances of the debtor, it is unreasonable that as much as 70 per cent of such debtor's wages should be

exempt, the judge may in any particular case, upon a hearing of the matter, reduce such percentage of exemption. R.S.O. 1970, c. 486, s. 7 (1); 1971, c. 20, s. 1 (1).

(2) If the debtor desires to contend that in the circumstances of any particular case, having regard to the size of his family, the wages he is earning and any other matter or thing that the judge may consider proper to take into account, the exemption allowed by this section should be increased, the judge has power to increase and to make an order providing for an increase of exemption that he may consider just and reasonable under all the circumstances. Increase of exemption

(3) Where the creditor intends to apply for a reduction in the amount of the exemption, he shall give notice of the intention to the employer at the time of the service of the notice or other process garnishing or attaching the wages, and if he fails to give the notice, the employer may pay into court so much only of the wages of the debtor as would not be exempt under subsection (1) and may pay the balance of the wages to the debtor. Notice of application for reduction of exemption

Subject to subsection (3), the debtor or creditor without waiting for the regular sittings of the court may apply to the judge upon at least five days notice in writing to the other party or his solicitor for an order fixing the amount of the debtor's exemption, and upon the making of the order, if the employer has paid the whole or any part of the wages into court and the amount so paid in equals or exceeds the amount allowed by way of exemption, such sum shall be forthwith paid out to the debtor, and in case the amount paid in is less than the amount so allowed, the whole amount paid in shall be paid out to the debtor. R.S.O. 1970, c. 486, s. 7 (3-5). Application to judge to fix exemption

(5) Subject to subsection (6), an assignment of wages or any portion thereof to secure payment of a debt whether heretofore or hereafter given is invalid. R.S.O. 1970, c. 486, s. 7 (6); 1971, c. 20, s. 1 (3). Wage assignments

(6) A debtor may assign to a credit union to which the *Credit Unions and Caisses Populaires Act* applies such portion of his wages as does not exceed the portion thereof that is liable to attachment or seizure under this section. R.S.O. 1970, c. 486, s. 7 (7). Idem, credit unions  
R.S.O. 1980, c. 102

8.—(1) Where a garnishment order has been made against the debtor, he may apply to the judge for an order for the release of the garnishment and for the payment Release of garnishment on terms

of the judgment by instalments and, if the judge considers it proper in all the circumstances of the case, he may make the order, fixing therein the amounts and times of payment, and, so long as the debtor is not in default under the order, no further garnishment of the debtor's wages shall be had in respect of the judgment debt.

Idem

(2) An order under subsection (1) may be made *ex parte*, but the judge may vary it at any time upon the application of the debtor or creditor with at least two days notice in writing to the other party.

Copy to  
judgment  
creditor

(3) Forthwith after an order is made under subsection (1), a copy thereof shall be sent by prepaid mail by the clerk of the court to the judgment creditor or his agent. R.S.O. 1970, c. 486, s. 8.

Attachment  
of wages  
only after  
judgment

**9.** Proceedings to attach any debt due or accruing due to any mechanic, workman, servant, clerk or employee for or in respect of his wages shall be taken only where the claim of the creditor against the debtor is upon a judgment. R.S.O. 1970, c. 486, s. 9.



## CHAPTER 527

## War Veterans Burial Act

1. In the event of the death of any person who was an indigent person and who was a member of Her Majesty's naval, military or air forces in active service during any war and his burial was provided by and paid for from the Last Post Fund, the municipality in which he resided at the time of his death shall pay the expenses of such burial, but not exceeding the sum of \$15, to the Fund upon proof of such burial and demand for payment made by a properly accredited officer of the Fund. R.S.O. 1970, c. 490, s. 1.

Liability of  
municipality  
for burial  
of veterans

2. In the event of the death of any employee who was a member of Her Majesty's naval, military or air forces in active service during any war and the burial was provided by and paid for from the Last Post Fund, the necessary expenses of the burial payable under clause 36 (1) (a) of the *Workmen's Compensation Act*, not exceeding \$100, shall be paid to the Fund. R.S.O. 1970, c. 490, s. 2.

In case of  
employee,  
compensa-  
tion payable  
to Last Post  
Fund  
R.S.O. 1980,  
c. 539



## CHAPTER 528

## Warehouse Receipts Act

**1.** In this Act,Interpre-  
tation

- (a) “action” includes counterclaim and set-off;
- (b) “fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;
- (c) “goods” includes all chattels personal other than things in action and money;
- (d) “holder”, as applied to a negotiable receipt, means a person who has possession of the receipt and a right of property therein, and, as applied to a non-negotiable receipt, means a person named therein as the person to whom the goods are to be delivered or his transferee;
- (e) “negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;
- (f) “non-negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to the holder thereof;
- (g) “purchaser” includes a mortgagee and pledgee;
- (h) “receipt” means a warehouse receipt;
- (i) “to purchase” includes to take as mortgagee or as pledgee;
- (j) “warehouse receipt” means an acknowledgment in writing by a warehouseman of the receipt for storage of goods not his own;
- (k) “warehouseman” means a person who receives goods for storage for reward. R.S.O. 1970, c. 489, s. 1.

Form of  
receipts

**2.—(1)** A receipt shall contain,

- (a) the address of the warehouse or other place where the goods are stored;
- (b) the name of the person by whom or on whose behalf the goods are deposited;
- (c) the date of issue of the receipt;
- (d) a statement either,
  - (i) that the goods received will be delivered to the holder thereof, or
  - (ii) that the goods will be delivered to bearer or to the order of a named person;
- (e) the rate of storage charges;
- (f) a description of the goods or of the packages containing them;
- (g) the signature of the warehouseman or his authorized agent; and
- (h) a statement of the amount of any advance made and of any liability incurred for which the warehouseman claims a lien.

Omission of  
particulars

(2) Where a warehouseman omits from a negotiable receipt any of the particulars set forth in subsection (1), he is liable for damage caused by the omission.

Idem

(3) No receipt shall by reason of the omission of any of the particulars set forth in subsection (1) be deemed not to be a warehouse receipt.

Insertions

(4) A warehouseman may insert in a receipt issued by him any other term or condition that,

- (a) is not contrary to any provision of this Act; and
- (b) does not impair obligation to exercise such care and diligence in regard to the goods as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

(5) Subject to this Act, a warehouse receipt issued by a warehouseman, when delivered to the owner or bailor of the goods or mailed to him at his latest address known to the warehouseman, constitutes the contract between the owner or bailor and the warehouseman; provided that the owner or bailor may within twenty days after such delivery or mailing notify the warehouseman in writing that he does not accept such contract and thereupon he shall remove the goods deposited subject to the warehouseman's lien for charges and if such notice is not given then the warehouse receipt so delivered or mailed constitutes the contract. R.S.O. 1970, c. 489, s. 2.

Contract  
constituted

**3.** Words in a negotiable receipt limiting its negotiability are void. R.S.O. 1970, c. 489, s. 3.

Negotiable  
receipts

**4.—(1)** No more than one receipt shall be issued in respect of the same goods except in case of a lost or destroyed receipt, in which case the new receipt, if one is given, shall bear the same date as the original, and shall be plainly marked on its face "duplicate".

Marking of  
duplicate  
receipts

(2) A warehouseman is liable for all damage caused by his failure to observe the provisions of subsection (1) to any person who purchases the subsequent receipt for valuable consideration, believing it to be an original, even though the purchase is after the delivery of the goods by the warehouseman to the holder of the original receipt.

Liability  
when not  
so marked

(3) A receipt upon the face of which the word "duplicate" is plainly marked is a representation and warranty by the warehouseman that it is an accurate copy of a receipt properly issued and uncanceled at the date of the issue of the duplicate. R.S.O. 1970, c. 489, s. 4.

Effect of  
duplicate  
receipts

**5.—(1)** A warehouseman who issues a non-negotiable receipt shall cause to be plainly marked upon its face the words "non-negotiable" or "not negotiable".

Marking  
of non-  
negotiable  
receipts

(2) Where a warehouseman fails to comply with subsection (1), a holder of the receipt who purchases it for valuable consideration believing it to be negotiable may, at his option, treat the receipt as vesting in him all rights attaching to a negotiable receipt and imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable, and the warehouseman is liable accordingly. R.S.O. 1970, c. 489, s. 5.

Failure  
to mark

**6.—(1)** A warehouseman in the absence of lawful excuse shall deliver the goods referred to therein,

Duty to  
deliver



(a) in the case of a negotiable receipt, to the bearer thereof upon demand made by the bearer and upon the bearer,

(i) satisfying the warehouseman's lien,

(ii) surrendering the receipt with such endorsements as are necessary for the negotiation of the receipt, and

(iii) acknowledging in writing the delivery of the goods; and

(b) in the case of a non-negotiable receipt, to the holder thereof upon the holder,

(i) satisfying the warehouseman's lien, and

(ii) acknowledging in writing the delivery of the goods.

Failure to deliver

(2) Where a warehouseman refuses or fails to deliver the goods in compliance with subsection (1), the burden is upon the warehouseman to establish the existence of a lawful excuse for his refusal or failure. R.S.O. 1970, c. 489, s. 6.

Delivery on presentation of a negotiable receipt

**7.** Where a person is in possession of a negotiable receipt that has been duly endorsed to him or endorsed in blank, or by the terms of which the goods are deliverable to him or his order or to bearer, if delivery is made in good faith and without notice of any defect in the title of that person, the warehouseman is justified in delivering the goods to that person. R.S.O. 1970, c. 489, s. 7.

Negotiable receipts must be cancelled on delivery of goods

**8.—(1)** Except as provided in section 18, where a warehouseman delivers goods for which he has issued a negotiable receipt and fails to take up and cancel the receipt, he is liable, for failure to deliver the goods, to anyone who purchases the receipt in good faith and for valuable consideration, whether he acquired title to the receipt before or after delivery of the goods by the warehouseman.

Negotiable receipts to be marked on delivery of part of goods

(2) Except as provided in section 18, where a warehouseman delivers part of the goods for which he has issued a negotiable receipt and fails either to take up and cancel the receipt, or to place plainly upon it a statement of what goods or packages have been delivered, he is liable, for failure to deliver all the goods specified in the receipt, to anyone who purchases the receipt in good faith and for valuable consideration, whether the purchaser acquired title to the receipt before or after the delivery of any portion of the goods. R.S.O. 1970, c. 489, s. 8.

**9.** Where a negotiable receipt has been lost or destroyed, <sup>Lost or destroyed receipts</sup> a judge of the Supreme Court, upon application after notice to the warehouseman by the person lawfully entitled to possession of the goods, may upon satisfactory proof of such loss or destruction order the delivery of the goods upon the giving of a bond with sufficient sureties to be approved in accordance with the practice of the court to indemnify the warehouseman against any liability, cost or expense he may be under or be put to by reason of the original receipt remaining outstanding, and the warehouseman is entitled to his costs of the application. R.S.O. 1970, c. 489, s. 9.

**10.** Where a warehouseman has information that a person <sup>Warehouseman has</sup> other than the holder of a receipt claims to be the owner of <sup>reasonable time to</sup> or entitled to the goods, he may refuse to deliver the goods <sup>determine validity of claims</sup> until he has had a reasonable time, not exceeding ten days, to ascertain the validity of the adverse claim or to commence interpleader proceedings. R.S.O. 1970, c. 489, s. 10.

**11.** A negotiable receipt is, in the hands of a holder who <sup>Con-</sup> has purchased it for valuable consideration, <sup>clusiveness</sup> conclusive <sup>of negotiable receipt</sup> evidence of the receipt by the warehouseman of the goods therein described as against the warehouseman and any person signing the same on his behalf, notwithstanding that the goods or some portion thereof may not have been so received unless the holder of the negotiable receipt has actual notice at the time of receiving the same, that the goods have not in fact been received. R.S.O. 1970, c. 489, s. 11.

**12.** Where goods are described in a receipt merely by, <sup>Description of goods in receipt</sup>

- (a) a statement of certain marks or labels on the goods or on the packages containing them;
- (b) a statement that the goods are said by the depositor to be goods of a certain kind;
- (c) a statement that the packages containing the goods are said by the depositor to contain goods of a certain kind; or
- (d) a statement of import similar to that of clause (a), (b) or (c),

the statement does not impose any liability on the warehouseman in respect of the nature, kind or quality of the goods, but shall be deemed to be a representation by the warehouseman either that the marks or labels were in fact on the goods or packages, or that the goods were in fact described by the depositor as stated, or that the packages

containing the goods were in fact described by the depositor as containing goods of a certain kind, as the case may be. R.S.O. 1970, c. 489, s. 12.

Liability  
for care  
of goods

**13.** A warehouseman is liable for loss of or injury to goods caused by his failure to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances. R.S.O. 1970, c. 489, s. 13.

Co-mingled  
goods and  
warehouse-  
man's  
liability  
therefor

**14.** Where authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade, and in that case the holders of the receipts for the mingled goods own the entire mass in common, and each holder is entitled to such proportion thereof as the quantity shown by his receipt to have been deposited bears to the whole. R.S.O. 1970, c. 489, s. 14.

Attachment  
or levy upon  
goods for  
which a  
negotiable  
receipt has  
been issued

**15.** Where goods are delivered to a warehouseman by the owner or person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable receipt is issued for them, they cannot thereafter while in the possession of the warehouseman, be levied under an execution, unless the receipt is first surrendered to the warehouseman. R.S.O. 1970, c. 489, s. 15.

Negotiable  
receipt must  
state charges  
for which  
lien is  
claimed

**16.** Where a negotiable receipt is issued for goods, the warehouseman has no lien on the goods, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. R.S.O. 1970, c. 489, s. 16.

Perishable  
and hazardous  
goods

**17.—(1)** Where goods are of a perishable nature or by keeping will deteriorate greatly in value or injure other property, the warehouseman may give such notice as is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman, or if not known to him, then to the depositor, requiring him to satisfy the lien upon the goods and to remove them from the warehouse, and on the failure of such person to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

Giving  
of notice

**(2)** The notice referred to in subsection (1) may be given by sending it by registered mail addressed to the person to whom it is to be given at the person's latest known place of address and the notice shall be deemed to be given on the day following the mailing.

(3) If the warehouseman after a reasonable effort is unable to sell the goods, he may dispose of them in any manner he may think fit, and does not incur liability by reason thereof. <sup>Disposal of goods</sup>

(4) The warehouseman shall satisfy his lien from the proceeds of any sale made pursuant to this section, and shall hold the balance in trust for the holder of the receipt. R.S.O. 1970, c. 489, s. 17. <sup>Proceeds of sale</sup>

**18.** Where goods have been lawfully sold to satisfy a warehouseman's lien or have been lawfully sold or disposed of pursuant to section 17, the warehouseman is not liable for failure to deliver the goods to the holder of the receipt. R.S.O. 1970, c. 489, s. 18. <sup>Effect of sale</sup>

**19.**—(1) A negotiable receipt may be negotiated by delivery, <sup>Negotiation of negotiable receipts</sup>

(a) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the bearer; or

(b) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the order of a named person and that person or a subsequent endorsee has endorsed it in blank or to bearer.

(2) Where by the terms of a negotiable receipt the goods are deliverable to bearer, or where a negotiable receipt has been endorsed in blank or to bearer, the receipt may be negotiated by the bearer endorsing it to a named person, and in that case the receipt shall thereafter be negotiated by the endorsement of the endorsee or a subsequent endorsee or by delivery if it is again endorsed in blank or to bearer. <sup>Idem</sup>

(3) Where by the terms of a negotiable receipt the goods are deliverable to the order of a named person, the receipt may be negotiated by the endorsement of that person. <sup>Idem</sup>

(4) An endorsement pursuant to subsection (3) may be in blank, to bearer or to a named person, and if the endorsement is to a named person, the receipt may be again negotiated by endorsement in blank, to bearer or to another named person, and subsequent negotiation may be made in like manner. R.S.O. 1970, c. 489, s. 19. <sup>Idem</sup>

**20.** The goods covered by a non-negotiable receipt may be transferred by the holder by delivery to a purchaser or donee of the goods of a transfer in writing executed by the <sup>Transfer of receipts</sup>



holder, but the transfer does not affect or bind the warehouseman until he is notified in writing thereof. R.S.O. 1970, c. 489, s. 20.

Rights of  
person to  
whom a  
receipt has  
been  
transferred

**21.**—(1) A person to whom the goods covered by a non-negotiable receipt are transferred acquires, as against the transferor,

- (a) the title to the goods; and
- (b) the right to deposit with the warehouseman the transfer or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

Idem

(2) The transferee acquires the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt upon,

- (a) deposit of the transfer of the goods; or
- (b) giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer. R.S.O. 1970, c. 489, s. 21.

Rights of  
person to  
whom a  
receipt has  
been  
negotiated

**22.** A person to whom a negotiable receipt is duly negotiated acquires,

- (a) such title to the goods as the person negotiating the receipt to him had or had ability to transfer to a purchaser in good faith for valuable consideration and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of receipt had or had ability to transfer to a purchaser in good faith for valuable consideration; and
- (b) the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him. R.S.O. 1970, c. 489, s. 22.

Transfer of  
negotiable  
receipt  
without en-  
dorsement

**23.** Where a negotiable receipt is transferred for valuable consideration by delivery and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears and the negotiation shall take effect as of the time when the endorsement is made. R.S.O. 1970, c. 489, s. 23.



**24.** A person who for valuable consideration negotiates<sup>Warranties on sale of receipt</sup> or transfers a receipt by endorsement of delivery, including one who assigns for valuable consideration a claim secured by a receipt, unless a contrary intention appears, warrants,

- (a) that the receipt is genuine;
- (b) that he has a legal right to negotiate or transfer it;
- (c) that he has no knowledge of any fact that would impair the validity of the receipt; and
- (d) that he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby. R.S.O. 1970, c. 489, s. 24.

**25.** The endorsement of a receipt does not make the<sup>Endorser not a guarantor</sup> endorser liable for any failure on the part of the warehouseman or previous endorser of the receipt to fulfil their respective obligations. R.S.O. 1970, c. 489, s. 25.

**26.** The validity of the negotiation of a receipt is not<sup>When negotiation not impaired by fraud, mistake or duress</sup> impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to such person, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor without notice of the breach of duty, or fraud, mistake or duress. R.S.O. 1970, c. 489, s. 26.

**27.** Where a person having sold, mortgaged or pledged<sup>Subsequent negotiation</sup> goods that are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged or pledged a negotiable receipt representing goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale or other disposition thereof to any person receiving it in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, has the same effect as if a previous purchaser of the goods or receipt had expressly authorized the subsequent negotiation. R.S.O. 1970, c. 489, s. 27.

**28.** Where a negotiable receipt has been issued for goods,<sup>Negotiation defeats vendor's lien</sup> no seller's lien or right of stoppage in transitu defeats the rights of a purchaser for value in good faith to whom the

receipt has been negotiated, whether the negotiation is prior or subsequent to the notification to the warehouseman who issued the receipt of the seller's claim to a lien or right of stoppage in transitu and the warehouseman shall not deliver the goods to an unpaid seller unless the receipt is first surrendered for cancellation. R.S.O. 1970, c. 489, s. 28.

Where Act  
not to apply

1970-71-72,  
c. 7 (Can.)

**29.** Nothing herein shall be deemed to include or apply to the manager or operator of a grain elevator as "manager" and "operator" are defined by the *Canada Grain Act* or any railway or express company within the jurisdiction of the Parliament of Canada. R.S.O. 1970, c. 489, s. 29.

Application  
of Act

**30.** This Act does not apply to receipts made and delivered before the 1st day of June, 1946. R.S.O. 1970, c. 489, s. 30.

Application  
to storage of  
furs, etc.

**31.** This Act does not apply to the storage of furs, garments and home furnishings, other than furniture, that are ordinarily used by the person placing them in storage or a member of his family or household. R.S.O. 1970, c. 489, s. 31.

## CHAPTER 529

## Warehousemen's Lien Act

## 1. In this Act,

Interpre-  
tation

- (a) "charges" has the meaning assigned to it in section 2;
- (b) "goods" includes all chattels personal other than things in action and money;
- (c) "warehouseman" means a person who receives goods for storage for reward. R.S.O. 1970, c. 488, s. 1.

2.—(1) Subject to section 3, every warehouseman has a <sup>Lien</sup> lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

(2) The lien is for the amount of the warehouseman's <sup>Amount of lien</sup> charges, that is to say,

- (a) all lawful charges for storage and preservation of the goods; and
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperage, and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Act and the *Warehouse Receipts Act* and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. R.S.O. 1970, c. 488, s. 2.

R.S.O. 1980,  
c. 528

3.—(1) Where the goods on which a lien exists were de- <sup>Notice of</sup> <sup>lien when</sup> <sup>goods in</sup> <sup>hands of</sup> <sup>agent, etc.</sup> posited not by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman, within two months after the date of the deposit, shall give notice of the lien,

R.S.O. 1980,  
c. 375

- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a financing statement in respect of a security interest in the goods is registered under the *Personal Property Security Act* at the date of deposit; and

R.S.O. 1980,  
c. 43

- (b) to the grantee of the goods under any bill of sale registered under the *Bills of Sale Act* at that date.

Form of  
notice

- (2) The notice shall be in writing and shall contain,

- (a) a brief description of the goods; and

- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and

- (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Act.

Failure to  
give notice

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. R.S.O. 1970, c. 488, s. 3.

Sale by  
public  
auction

4.—(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges that have become due.

Notice  
of sale

- (2) The warehouseman shall give written notice of his intention to sell,

- (a) to the person liable as debtor for the charges for which the lien exists; and

- (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a financing statement in respect of a security interest in the goods is registered under the *Personal Property Security Act* at the date of deposit of the goods; and

- (c) to the grantee of the goods under any bill of sale registered under the *Bills of Sale Act* at that date; and

- (d) to any other person known by the warehouseman to have or claim an interest in the goods.

(3) The notice shall contain,

Form of  
notice

- (a) a brief description of the goods; and
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice; and
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
- (e) a statement that unless the charges are paid within the time mentioned, the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold and stating the name of the person liable as debtor for the charges for which the lien exists and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper published in Ontario and circulating in the locality where the sale is to be held, and the sale shall be held not less than fourteen days from the date of the first publication of the advertisement. R.S.O. 1970, c. 488, s. 4.

Advertise-  
ment of sale

5. Where a notice of lien under section 3 or a notice of intention to sell under section 4 has been given, but such provisions have not been strictly complied with, if the court or a judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable for the lien or sale to be void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. R.S.O. 1970, c. 488, s. 5.

Substantial  
compliance  
with re-  
quirements

6.—(1) The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any,

Application  
of proceeds  
of sale



to the person entitled thereto, and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

When  
surplus to  
be paid  
into court

(2) If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into the Supreme Court upon the order of a judge, and the order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

Statement  
of account  
to be filed

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. R.S.O. 1970, c. 488, s. 6.

Discharge  
of lien

7.—(1) At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving the notices, publishing the advertisement and preparing for the sale up to the time of the payment.

Disposition  
of goods

(2) The warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. R.S.O. 1970, c. 488, s. 7.

Notices,  
how given

8. Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by sending it by registered mail to his latest known address. R.S.O. 1970, c. 488, s. 8.

Contract  
not affected

9. Nothing in this Act shall be deemed to affect the terms of the contract between the owner or bailor and the warehouseman. R.S.O. 1970, c. 488, s. 9.

## CHAPTER 530

## Weed Control Act

**1.** In this Act,Interpre-  
tation

- (a) “area weed inspector” means a person appointed under section 6 to enforce this Act;
- (b) “chief inspector” means the chief inspector appointed under this Act;
- (c) “Director” means the Director appointed under this Act;
- (d) “district weed inspector” means a district weed inspector appointed under this Act;
- (e) “inspector” means an area weed inspector, district weed inspector or municipal weed inspector;
- (f) “Minister” means the Minister of Agriculture and Food;
- (g) “municipal weed inspector” means a person appointed under section 8 to enforce this Act;
- (h) “noxious weed” means a plant that is designated under this Act as a noxious weed;
- (i) “owner” means the person shown as the owner of property on the last revised assessment roll of the municipality in which the property is located;
- (j) “regulations” means the regulations made under this Act;
- (k) “weed seed” means the seed of a noxious weed. 1972, c. 39, s. 1.

**2.** For the purposes of this Act, the owner of any land shall be deemed, unless the contrary is proved, to be the person in possession of the land. R.S.O. 1970, c. 493, s. 2.

**3.** The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act, a chief inspector and a district weed inspector for any district designated in his appointment. 1971, c. 50, s. 87 (2).

Duty to  
destroy  
noxious  
weeds

4. Every person in possession of land shall destroy all noxious weeds thereon. R.S.O. 1970, c. 493, s. 4 (1).

Road  
authorities  
deemed in  
possession  
of roads  
R.S.O. 1980,  
c. 421

5. For the purposes of section 4, every road authority within the meaning of the *Public Transportation and Highway Improvement Act* shall be deemed to be the person in possession of the land under its jurisdiction. R.S.O. 1970, c. 493, s. 5 (1); 1971, c. 61, s. 1.

Appointment  
of inspectors  
in counties  
and regional  
municipalities

6.—(1) The council of every county, district and regional municipality shall by by-law appoint one or more persons as area weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation.

Division of  
municipality  
into areas

(2) Any such council may divide the municipality into areas and appoint one or more area weed inspectors for each area.

Failure  
to appoint  
inspectors

(3) Where a council fails to appoint an area weed inspector under subsection (1), the Minister may appoint the area weed inspector and fix his remuneration or other compensation and shall notify the council of the appointment in writing and the treasurer of the municipality shall pay the remuneration or other compensation so fixed. 1972, c. 39, s. 4, *part*.

Clerk to  
report  
inspectors

7.—(1) The clerk of each county, district and regional municipality shall, before the 1st day of April in each year, state in writing to the chief inspector the name and address of every area weed inspector for the municipality under this Act and the area for which each area weed inspector is appointed.

Idem

(2) Where the council of a county, district or regional municipality passes a by-law under this Act on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law state in writing to the chief inspector the name and address of every area weed inspector appointed and the area for which the appointment is made.

Idem

(3) Where any area weed inspector resigns or the council revokes his appointment, the clerk of the municipality shall within seven days of the resignation or revocation, as the case may be, state the particulars thereof in writing to the chief inspector. 1972, c. 39, s. 4, *part*.

Appointment  
of inspectors  
in cities, etc.

8.—(1) The council of any municipality not referred to in subsection 6 (1) may by by-law appoint one or more persons as municipal weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation.

(2) Where persons are appointed as municipal weed inspectors under subsection (1), they shall carry out their duties in co-operation with the area weed inspector and the area weed inspector may, when he considers it necessary, exercise all the powers of an inspector under this Act in that municipality.

Co-operation  
with area  
weed  
inspector

(3) Where the council of a municipality has appointed a municipal weed inspector under subsection (1), it may by by-law designate any plant that is not a noxious weed as a local weed in respect of the whole or any part of the municipality.

Designation  
of local weed  
by municipal  
by-law

(4) For the purposes of this Act, a plant that is designated as a local weed under subsection (3) shall be deemed to be a noxious weed within the area to which the by-law applies.

Effect of  
designation

(5) A by-law passed under subsection (3) does not take effect until it is approved by the Minister. 1972, c. 39, s. 4, *part*.

Approval of  
by-laws

9. Where road commissioners have been appointed under the *Statute Labour Act* in territory without municipal organization, they shall have the powers of an inspector, and the provisions of this Act and the regulations apply in the same manner as in the case of a municipality except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act are collectable in the manner provided in the *Statute Labour Act* with respect to the enforcement of the payment of charges for statute labour or commutation thereof. R.S.O. 1970, c. 493, s. 9.

Inspectors in  
territory  
without  
municipal  
organization  
R.S.O. 1980,  
c. 482

10. For the purpose of searching for noxious weeds or weed seeds, an inspector may at any time between sunrise and sunset enter upon any land and building other than a dwelling house in the area within his jurisdiction and inspect the land, and buildings, and any implements, machinery, vehicles and crops or other plants. R.S.O. 1970, c. 493, s. 10.

Powers of  
inspectors

11.—(1) Where an inspector finds noxious weeds or weed seeds on land in the area within his jurisdiction, he may order the person in possession of the land to destroy the noxious weeds or weed seeds, and the person in possession of the land shall comply with the order.

Order for  
destruction  
of weeds

(2) Every order shall be in the prescribed form and shall specify the time within which the noxious weeds or weed seeds shall be destroyed, but no order shall specify a time of less than seven days from the date of service of the order.

Time for  
destruction  
of weeds



Service  
of order

(3) Every order shall be served upon every person named in the order,

- (a) where the person to be served resides on the land, by leaving a copy thereof with the person or with any person over the age of sixteen years residing on the land, or by sending it by registered mail addressed to the person at his usual place of residence; or
- (b) where the person to be served does not reside on the land, by leaving a copy thereof with him or by sending it by registered mail addressed to him at his usual place of residence.

Service  
on owner

(4) Every order in which the owner of land is not named shall be served on the owner in the manner set out in subsection (3).

Appeal to  
chief  
inspector

(5) Where any person considers himself aggrieved by an order served upon him, he may, within four days after service of the order, appeal against the order or any requirements of the order to the chief inspector giving reasons for his objection to the order. R.S.O. 1970, c. 493, s. 11 (1-5).

Disposition  
of appeal

(6) The chief inspector may, after hearing an appeal under this section, confirm or revoke the order appealed from or may make a new order in place of such order, which shall be served in accordance with subsections (3) and (4).

Parties

(7) The appellant, the inspector who issued the order and such other persons as the chief inspector may specify are parties to proceedings before the chief inspector under subsection (6).

How appeal  
made

(8) An appeal under this section may be made in writing or orally or by telephone to the chief inspector, but the chief inspector may require the grounds for appeal to be specified in writing before the hearing.

Examination  
of land

(9) The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine land in relation to which an order appealed from under this section is made and may give his decision upon the evidence adduced by the parties and on such view and examination. 1971, c. 50, s. 87 (3).

Obstruction  
of inspectors

**12.** No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. R.S.O. 1970, c. 493, s. 12.



**13.**—(1) Where an order served under section 11 is not complied with, the inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations. Failure to comply with order

(2) Every inspector shall keep a record of the expenses incurred by him in the discharge of his duties under subsection (1) with respect to each parcel of land in one possession, and he shall serve a statement thereof, together with a notice requesting payment, on the person in possession of the parcel and on the owner of the parcel. Expenses of inspectors

(3) The statement and notice shall be served in the same manner as an order under section 11. Service of statement of expenses

(4) If the person on whom a statement and notice were served under subsection (2) fails to pay the amount set out in the statement within fifteen days after the request for payment, the inspector shall present the statement to the council of the municipality in which the land is located, and the council, if the statement is proper, shall order it to be paid out of the general funds of the municipality. R.S.O. 1970, c. 493, s. 13 (1-4). Failure to pay

(5) The council shall cause every amount paid under subsection (4) to be placed on the collector's roll against the land concerned and it shall be collected in the same manner as taxes under the *Municipal Act*. 1973, c. 89, s. 1. Collection of costs

R.S.O. 1980,  
c. 302

**14.** Notwithstanding any other provision of this Act, the council of any city, town, village or township, after publication of notice thereof in a newspaper having general circulation in the municipality, may direct any of its municipal weed inspectors or, where there are no municipal weed inspectors, the area weed inspector to cause the noxious weeds or weed seeds on any subdivided portions of the municipality, and lots not exceeding 10 acres whether or not the lots are part of a subdivision, to be destroyed in the manner prescribed in the regulations, and the inspector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under the *Municipal Act*. R.S.O. 1970, c. 493, s. 14; 1972, c. 39, s. 5; 1973, c. 89, s. 2; 1978, c. 87, s. 9. Destruction of weeds in subdivided areas

## Appeals

**15.** An application to the council for the cancellation, reduction or refund of any amount levied in the year in respect of which the application is made may be made by any person subject to an appeal to the Assessment Review Court in the same manner as for taxes under section 496 of the *Municipal Act*. 1973, c. 89, s. 3.

R.S.O. 1980,  
c. 302

Notice to  
destroy by  
district  
inspector

**16.**—(1) Where a district weed inspector finds noxious weeds or weed seeds on any land within the limits of a municipality in his district, he may deliver or send by registered mail to the clerk of the municipality a notice requiring such noxious weeds or weed seeds to be destroyed before a date specified in the notice.

Failure to  
comply with  
notice

(2) Where any such notice is not complied with, the district weed inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations.

Recovery of  
expenses  
and charges

(3) The expenses incurred by a district weed inspector under subsection (2) shall be paid by the municipality concerned and are recoverable in any court of competent jurisdiction by the Minister in the name of Her Majesty as a debt due the Crown, and in any such action the certificate purporting to be signed by the Minister as to the amount of the expenses is conclusive proof thereof without proof of his authority or signature. R.S.O. 1970, c. 493, s. 15.

Deposit of  
noxious  
weeds

**17.** No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where the weeds or weed seeds might grow or spread. R.S.O. 1970, c. 493, s. 16.

Cleaning  
machines

**18.** Where the moving of any machine used for threshing, combining, seed cleaning, chopping, baling, silo filling or other handling or processing of farm crops is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move or cause to be moved such machine without first removing all seeds and other residue therefrom. R.S.O. 1970, c. 493, s. 17.

Grain  
elevators,  
etc.

**19.** Every person in charge of a grain elevator, grist mill, flour mill, seed-cleaning plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in such manner as will prevent the weed seeds from growing or spreading. R.S.O. 1970, c. 493, s. 18.

## Exception

**20.** Sections 4, 11, 14 and 16 do not apply to noxious weeds or weed seeds that are so far distant from any place used for agricultural or horticultural purposes that the noxious weeds or weed seeds can have no material effect

on the agricultural or horticultural use of such place.  
1972, c. 39, s. 6 (1).

**21.**—(1) Every person who contravenes any of the pro-<sup>Offence</sup>visions of this Act or of the regulations, or of any order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$50 and for a second or subsequent offence to a fine of not less than \$50 and not more than \$100. 1972, c. 39, s. 7.

(2) Subsection (1) applies to a person who is in contravention <sup>Appli-</sup>of section 4 or of an order made under subsection 11 (1) not-<sup>cation of</sup>withstanding that procedures for destroying weeds are provided <sup>penalty</sup>for. 1973, c. 89, s. 4.

**22.** The Lieutenant Governor in Council may make regula-<sup>Regulations</sup>tions,

- (a) designating plants as noxious weeds;
- (b) prescribing the manner of and procedures for destroying noxious weeds and weed seeds, and providing for the circumstances and conditions under which noxious weeds and weed seeds may be destroyed under sections 13, 14 and 16;
- (c) respecting the transportation of farm produce that is infested with noxious weeds or weed seeds;
- (d) requiring methods and procedures that shall be taken to prevent the establishment of any noxious weed in any locality;
- (e) providing for the reimbursement of counties, regional municipalities and municipalities in territorial districts by the Province of Ontario for any part of the moneys expended under this Act and prescribing limits on amounts reimbursed;
- (f) prescribing forms and providing for their use;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 493, s. 21; 1972, c. 39, s. 8.



## CHAPTER 531

## Wharfs and Harbours Act

1. This Act applies to every company heretofore or here-<sup>Application of Act</sup> after incorporated for constructing a pier or wharf, for dredging, deepening or making a harbour, or for the erection of a dry dock and marine railway connected therewith. R.S.O. 1970, c. 495, s. 1.

2.—(1) The company may detain any goods, wares or <sup>Company's right of detention and sale</sup> merchandise, or any vessel, boat or craft until the tolls or charges thereon have been paid, and may sell any vessel, boat or craft for the charges for repairs thereof when such charges have remained unpaid for thirty days.

(2) Where the charges for wharfage or storage dues on <sup>Sale of goods for dues</sup> goods, wares or merchandise have remained unpaid for thirty days, the company, after giving ten days notice of sale, may, by public auction, sell such goods, wares or merchandise or such part thereof as may be necessary to pay such charges or dues.

(3) The company shall pay the surplus, if any, or deliver <sup>Return of surplus to owner</sup> some of the goods as remain unsold to the person entitled thereto. R.S.O. 1970, c. 495, s. 2.

3. The corporation of the municipality in which any such work is to be constructed may subscribe for, acquire, hold and transfer shares in the company or may direct the head of the municipality to subscribe for such shares in the name of the corporation and to act for the corporation in all matters relating to such shares and the exercise of the rights of the corporation as a shareholder, and the head of the municipality, whether otherwise qualified or not, may vote and act in respect of such shares, subject to any rules and orders in relation to his authority made by the council, and according to his discretion in cases not provided for by the council. R.S.O. 1970, c. 495, s. 3.

4. A company may sell to the corporation of any municipality in which the work is situate, and any such corporation may purchase the undertaking and assets of the company at the value agreed on between them, and the corporation shall in all respects thereafter stand in the place of the company and possess all its powers and authority. R.S.O. 1970, c. 495, s. 4.





## CHAPTER 532

## Wild Rice Harvesting Act

## 1. In this Act,

Interpre-  
tation

- (a) "Crown lands" means lands owned by Her Majesty in right of Ontario, and includes lands covered with water;
- (b) "Deputy Minister" means the Deputy Minister of Natural Resources;
- (c) "licence" means a licence issued under this Act;
- (d) "Minister" means the Minister of Natural Resources;
- (e) "resident" means any person who has actually resided in Ontario for a period of twelve consecutive months immediately preceding the time that his residence becomes material under this Act. R.S.O. 1970, c. 497, s. 1; 1972, c. 4, s. 12.

2. The administration of this Act is under the control and direction of the Minister. R.S.O. 1970, c. 497, s. 2.

Administra-  
tion of Act

3.—(1) Except under the authority of a licence, no person shall harvest or attempt to harvest wild rice on Crown lands.

Licences

(2) No person who is not a resident shall have a licence. R.S.O. 1970, c. 497, s. 3 (1, 2).

No licence  
to non-  
residents

(3) The Minister shall control the issue of licences and may give directions relating thereto and to the cancellation thereof and may prescribe terms and conditions of licences.

Issue, etc.,  
of licences

(4) Subject to any directions given by the Minister, the Deputy Minister may issue, refuse to issue or cancel licences. 1971, c. 50, s. 88 (1), *part*.

Deputy  
Minister may  
issue, etc.

(5) Before refusing to issue a licence or cancelling a licence, the Deputy Minister shall cause an officer in the Ministry of Natural Resources to hold a hearing to which the applicant or licensee shall be a party. 1971, c. 50, s. 88 (1), *part*; 1972, c. 4, s. 12.

Hearing

## Report

(6) An officer holding a hearing under subsection (5) shall make a report to the Deputy Minister of his findings of fact and law at the hearing.

Application of  
R.S.O. 1980,  
c. 484

(7) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

Decision  
after  
hearing

(8) After considering the report of an officer holding a hearing under this section, the Deputy Minister may issue, refuse to issue or cancel the licence to which the hearing related and shall give his reasons for his decision to the applicant or licensee.

## Appeal

(9) An applicant or licensee who has been refused a licence or whose licence has been cancelled by the Deputy Minister may appeal to the Minister from the decision of the Deputy Minister and the Minister shall consider the report of the officer holding the hearing and of the Deputy Minister and may issue, refuse to issue or cancel the licence to which the appeal relates. 1971, c. 50, s. 88 (1), *part*.

## Regulations

**4.**—(1) The Lieutenant Governor in Council may make regulations,

(a) governing the issue, form, renewal or transfer of licences and prescribing fees therefor;

(b) dividing Ontario or any part thereof into wild rice harvesting areas and designating such areas by identifying numbers and initials;

(c) prescribing royalties payable on wild rice harvested. R.S.O. 1970, c. 497, s. 4 (1); 1971, c. 50, s. 88 (2, 3).

## Idem

(2) Any regulation made under subsection (1) may be general or particular in its application territorially or as to time or otherwise. R.S.O. 1970, c. 497, s. 4 (2).

## Offence

**5.** Every person who contravenes any of the provisions of this Act or the regulations or any term or condition of his licence is guilty of an offence and on conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 497, s. 5.

## CHAPTER 533

## Wilderness Areas Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Natural Resources;
- (b) "public lands" means the lands belonging to Her Majesty in right of Ontario, whether or not covered with water. R.S.O. 1970, c. 498, s. 1; 1972, c. 4, s. 12.

2. The Lieutenant Governor in Council may set apart any public lands as a wilderness area for the preservation of the area as nearly as may be in its natural state in which research and educational activities may be carried on, for the protection of the flora and fauna, for the improvement of the area, having regard to its historical, aesthetic, scientific or recreational value, or for such other purposes as may be prescribed. R.S.O. 1970, c. 498, s. 2.

Establish-  
ment of  
wilderness  
areas

3. Nothing in this Act or in the regulations made under this Act limits or affects the development or utilization of the natural resources in any wilderness area that is more than 260 hectares in size. R.S.O. 1970, c. 498, s. 3; 1978, c. 87, s. 33.

Saving

4. Land may be acquired under the *Ministry of Government Services Act* for the purposes of this Act. R.S.O. 1970, c. 498, s. 4; 1973, c. 2, s. 2.

Acquisition  
of land  
R.S.O. 1980,  
c. 279

5. Wilderness areas are under the control and management of the Minister. R.S.O. 1970, c. 498, s. 5.

Adminis-  
tration

6. Notwithstanding the *Game and Fish Act* and the regulations thereunder, the Minister may take such measures as he considers proper for the protection of fish, animals and birds in wilderness areas. R.S.O. 1970, c. 498, s. 6.

Protection of  
wild life  
R.S.O. 1980,  
c. 182

7.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) for the care, preservation, improvement, control and management of wilderness areas;
- (b) for prohibiting or regulating and controlling the use of lands in wilderness areas;

- (c) for prohibiting or regulating and controlling the admission of persons or domestic animals to wilderness areas and for issuing permits to persons to enter and travel in wilderness areas and prescribing the terms and conditions thereof and the fee therefor;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(2) Any regulations under subsection (1) may be made applicable to all wilderness areas, to any wilderness area or to any part of a wilderness area. R.S.O. 1970, c. 498, s. 7.

Offence

**8.** Every person who contravenes any regulation made under this Act or any term or condition of a permit issued under the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 498, s. 8.



## CHAPTER 534

## Wine Content Act

**1.**—(1) Notwithstanding any provision of the *Liquor Licence Act* and the *Liquor Control Act* and the regulations made thereunder, the Lieutenant Governor in Council may make regulations,

Regulations  
for use of  
non-Ontario  
grapes  
and wine  
R.S.O. 1980,  
cc. 244, 243

- (a) fixing for each manufacturer licensed under the *Liquor Licence Act* a quota of grapes grown out of Ontario or the equivalent thereof in imported wine that may be used by the manufacturer in the manufacture of wine for the purposes set out in section 2;
- (b) prescribing the terms and conditions under which the quotas mentioned in clause (a) may be used and providing for their cancellation or reduction;
- (c) prescribing the proportions in which grapes grown out of Ontario or the equivalent thereof in imported wine may be used in the manufacture of wine with grapes, or the concentrates thereof, grown in Ontario. 1976, c. 78, s. 1 (1).

(2) A manufacturer licensed under the *Liquor Licence Act* shall not, after the 31st day of August, 1984, introduce into the manufacture of wine any part of the quota of grapes or imported wine fixed under clause (1) (a). 1976, c. 78, s. 1 (2); 1980, c. 81, s. 1.

Time limit  
used in  
manufacture

**2.** Notwithstanding any provision of the *Liquor Licence Act*, a manufacturer of Ontario wine licensed under that Act may,

Sale of  
wine  
permitted

- (a) keep for sale and sell to the Liquor Control Board;  
and
- (b) keep for sale and sell under the supervision and control of the Liquor Control Board,

wine manufactured in accordance with this Act and the regulations by the combination of grapes grown in Ontario, or the concentrates thereof, with grapes grown out of Ontario or imported wines. 1976, c. 78, s. 2.

## Offence

**3.** Any contravention of this Act or the regulations thereunder shall be deemed to be a contravention of subsection 4 (1) of the *Liquor Licence Act*. 1976, c. 78, s. 3.

Application of  
R.S.O. 1980,  
cc. 243, 244

**4.** Nothing in this Act shall be construed so as to limit the application of the *Liquor Control Act* and the *Liquor Licence Act* and the regulations thereunder, except as specifically provided herein. 1976, c. 78, s. 4.

Purpose  
of Act

**5.** The purpose of this Act is to permit the introduction of grapes grown outside Ontario and imported wine into wine manufactured in Ontario without reducing the use of Ontario grapes in the content. 1976, c. 78, s. 5.

## CHAPTER 535

## Woodlands Improvement Act

## 1. In this Act,

Interpre-  
tation

- (a) “forestry purposes” means forestry purposes as defined in the *Forestry Act*; R.S.O. 1980,  
c. 175
- (b) “improvement of the woodlands” does not include any treatment that will produce immediate revenue;
- (c) “management program” means a report of the existing forest resources and on the proposed silvicultural and marketing program;
- (d) “Minister” means the Minister of Natural Resources;
- (e) “nursery stock” means nursery stock as defined in the *Forestry Act*;
- (f) “owner” means registered owner in fee simple;
- (g) “regulations” means the regulations made under this Act;
- (h) “woodlands” means lands having at least 1,000 trees per hectare of all sizes or at least 750 trees per hectare measuring over five centimetres in diameter or at least 500 trees per hectare measuring over twelve centimetres in diameter or at least 250 trees per hectare measuring over twenty centimetres in diameter (all such measurements to be taken at least 1.3 metres from the ground), but does not include a plantation established for the purpose of producing Christmas trees. R.S.O. 1970,  
c. 502, s. 1; 1972, c. 4, s. 12; 1978, c. 87, s. 34 (1).

2. Subject to the regulations, the Minister may, upon such terms and conditions as he considers proper, enter into agreements with the owners of lands that are suitable for forestry purposes and that are situate in a private forest management area for the planting of nursery stock or the improvement of the woodlands on such lands. Agreements  
as to  
forestry  
development  
R.S.O. 1970,  
c. 502, s. 2.

Cutting  
of trees

**3.** Where an owner of land enters into an agreement under section 2, he shall not cut or remove any trees growing on the land covered by the agreement except in accordance with the management program under the agreement. R.S.O. 1970, c. 502, s. 3.

Termination  
of agree-  
ment and  
recovery  
of cost

**4.** Where an owner of land who has entered into an agreement under section 2 violates or fails to observe any provision of the agreement or this Act, the Minister may terminate the agreement and may recover from the owner in any court of competent jurisdiction the cost of the planting of nursery stock or the improvement of the woodlands determined at the rate fixed by the regulations. R.S.O. 1970, c. 502, s. 4.

Regulations

**5.—(1)** The Lieutenant Governor in Council may make regulations,

(a) fixing the cost of the planting of nursery stock and the cost of improvement of the woodlands that are recoverable by the Minister under section 4;

(b) prescribing the maximum sum per hectare that the Minister may expend under agreements entered into under section 2;

(c) designating parts of Ontario as private forest management areas. R.S.O. 1970, c. 502, s. 5 (1); 1978, c. 87, s. 34 (2).

Idem,  
limited  
effect

(2) Any regulation may be limited to one or more private forest management areas. R.S.O. 1970, c. 502, s. 5 (2).

## CHAPTER 536

## Woodmen's Employment Act

## 1. In this Act,

Interpre-  
tation

- (a) "Crown timber" means trees standing, growing or being on ungranted public lands or on other lands where the timber thereon or any portion thereof is the property of the Crown;
- (b) "employees" means persons in the employ of an operator or in the employ of any person carrying on work under a contract, subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber;
- (c) "Minister" means the Minister of Natural Resources;
- (d) "Ministry" means the Ministry of Natural Resources;
- (e) "operator" means any person holding a licence, permit, contract, agreement or other instrument granted or made by the Crown under which exists the right to cut and remove Crown timber.  
R.S.O. 1970, c. 503, s. 1; 1972, c. 4, s. 12.

2.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may appoint an inspector under this Act. R.S.O. 1970, c. 503, s. 2 (1).

Appointment  
of inspector

(2) Such office may be assigned to some person performing other duties in the Ministry unless the duties are so onerous as to require a separate appointment. R.S.O. 1970, c. 503, s. 2 (2); 1972, c. 1, s. 1.

Who may be  
appointed

(3) The Minister or the Deputy Minister of Natural Resources may appoint any Crown timber agent or other officer of the public service of Ontario to be an assistant inspector, and such assistant inspector has the same duties and powers as the inspector and shall act for such period

Assistant  
inspectors



of time as may be authorized by the Minister or Deputy Minister. R.S.O. 1970, c. 503, s. 2 (3); 1972, c. 4, s. 12.

Duties of  
inspector,  
investiga-  
tions

3. It is the duty of the inspector to investigate from time to time as may be directed by the Minister or the Deputy Minister of Natural Resources the undertaking or operations of any operator or of any person carrying on work under a contract or subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber, and such investigation shall be made with reference to,

wages and  
hours of  
labour

(a) the computation of the wages or earnings of employees, the hours and times of working, and the method of paying such wages or earnings;

food  
supplies

(b) the sufficiency and wholesomeness of food supplied to employees whether such food is supplied as part of the wages or earnings of such employees or is paid for in cash by such employees, or is deducted from the wages or earnings of such employees;

charges for  
supplies

(c) the prices charged for meals, living accommodation, clothing, boots, supplies, tools, tobacco and any other article sold to, provided for or offered for sale to employees;

deductions  
for services

(d) the amount charged against or deducted from the wages or earnings of employees for medical, dental, transportation or other services or facilities of any nature whatsoever;

assessments

(e) the assessments, levies, fines, penalties or other deductions charged against the wages or earnings of any employee;

camp  
quarters

(f) the rooms, tents, cabins, houses, camps or other places of accommodation provided for the living or working places of employees and the sanitary conditions thereof, or of any storehouse, kitchen, dining room or other places used for the preparation, storing and serving of food;

contracts

(g) the details of any contract, subcontract, arrangement whether written or otherwise, the carrying out of which involves in any manner the employment of any person;

(h) the conditions under which employees labour, the hazards to which employees are subjected in the course of work, and the methods employed in carrying out timbering and lumbering operations; <sup>labour conditions</sup>

(i) such other matters respecting woodmen's employment as may be directed by the Minister or the Deputy Minister of Natural Resources. R.S.O. 1970, c. 503, s. 3; 1972, c. 4, s. 12. <sup>other matters</sup>

4. Every operator is responsible to the Crown for all things done or required to be done in the course of carrying out the timbering or other operations authorized under the licence, permit, contract, agreement or other instrument held by such operator, notwithstanding that such operator by contract, agreement, permit or other instrument, or in any other manner, has authorized or permitted work to be undertaken or performed, or services to be supplied by contractors, subcontractors, permittees, jobbers or by any other person whatsoever. R.S.O. 1970, c. 503, s. 4. <sup>Responsibility of operators</sup>

5. The inspector shall transmit to the Minister a report as soon as practicable after each investigation made by him, and the Minister, upon receipt of the report, may make such recommendations to the operator or operators referred to therein or to the Lieutenant Governor in Council as the Minister may consider advisable. R.S.O. 1970, c. 503, s. 5. <sup>Report of inspector</sup>

6. The Lieutenant Governor in Council may make regulations respecting any of the several matters made the subject of investigation under this Act, or respecting the procedure to be followed in carrying out the provisions of this Act. R.S.O. 1970, c. 503, s. 6. <sup>Regulations</sup>

7. The inspector for the purpose of making an investigation under this Act may, <sup>Powers of inspector in investigations</sup>

(a) upon production of his appointment as an inspector, enter at any reasonable time upon any land and premises upon which Crown timber is being cut and removed or which are used in connection with the cutting or removal of Crown timber and examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees and of any kitchen, dining room, storeroom or other place used for the preparation, serving or storing of food provided to employees; and

(b) for purposes relevant to the subject-matter of the investigation, make inquiries from any person and require the production of and examine documents, books and papers, including payrolls, price lists, diet sheets and shanty books, and for those purposes the inspector has the powers of a Commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiries as if they were inquiries under that Act. 1971, c. 50, s. 91, *part*.

R.S.O. 1980,  
c. 411

Irregularity  
in form  
not to  
invalidate

**8.** No proceeding under this Act is invalid by reason of any defect of form or technical irregularity. R.S.O. 1970, c. 503, s. 10.

## CHAPTER 537

### Woodmen's Lien for Wages Act

**1. In this Act,**

Interpre-  
tation

- (a) "bailiff" includes a constable who under the *Small Claims Courts Act* may execute an attachment or perform other service; R.S.O. 1980,  
c. 476
- (b) "labour" means cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and includes any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;
- (c) "logs or timber" means logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts, and staves, or any of them. R.S.O. 1970, c. 504, s. 1.

**2.** This Act applies only to the Provisional County of Haliburton and to the provisional judicial districts. R.S.O. 1970, c. 504, s. 2. Application  
of Act

**3.** Where in this Act any act is required to be done by or any paper to be filed or proceedings taken in the office of the clerk of the district court of a district or jurisdiction is conferred upon a district court or the judge thereof, the like acts may be done, papers filed and proceedings taken by him and in the office of the clerk of the county court of the County of Victoria, and the like jurisdiction may be exercised by that court or a judge thereof in respect of matters arising in the Provisional County of Haliburton. R.S.O. 1970, c. 504, s. 3. Proceedings  
in provisional  
county of  
Haliburton

**4.—(1)** Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act is not to apply, or that the remedies provided by it are not to be available for the benefit of such person, is void. Contracts  
waiving  
application  
of Act to  
be void

(2) This section does not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day. R.S.O. 1970, c. 504, s. 4. Exceptions

Lien for  
labour on  
logs or  
timber

**5.—**(1) A person performing labour has a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the lien has precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or that a timber slide company or any owner of a slide or boom may have thereon for tolls.

Contractors,  
with respect  
to labour  
or services  
to be  
performed  
on timber

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour within the meaning of this section. R.S.O. 1970, c. 504, s. 5.

Lien to  
cease unless  
proceedings  
taken

**6.** The lien ceases unless the claim therefor is filed and proceedings are taken to enforce the claim as hereinafter provided. R.S.O. 1970, c. 504, s. 6.

Claim of  
lien to be  
filed

**7.—**(1) The person claiming the lien shall state his claim in writing in Form 1, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by  
affidavit

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent in Form 2.

Time for  
filing claim,  
contractors

(3) In the case of a contractor coming within subsection 5 (2), the claim and affidavit shall be filed on or before the 1st day of September next following the performance of the labour.

wage-  
earners

(4) In other cases, if the labour was performed between the 1st day of October and the 1st day of April next thereafter, the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1970, c. 504, s. 7.

Place for  
filing claim

**8.—**(1) Except as hereinafter provided, the claim and affidavit shall be filed in the office of the district court of the provisional judicial district in which the labour or some part thereof was performed.

Where labour  
performed  
in certain  
localities

(2) Where the labour was performed upon logs or timber got out to be run down or that have been run down any



of the rivers or streams flowing into Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake, Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the clerk of the district court of the district in which the labour was performed or in the office of the clerk of the district court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed <sup>in Haliburton</sup> in the Provisional County of Haliburton, the claim may be filed in the office of the clerk of the county court of the County of Victoria. R.S.O. 1970, c. 504, s. 8.

**9.** No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but the lien remains in force against the logs or timber in whosoever possession the logs or timber are found. R.S.O. 1970, c. 504, s. 9. <sup>Sale not to affect lien</sup>

**10.—(1)** Any person having a lien upon logs or timber may enforce the lien by suit, where the claim does not exceed \$1,000, in the small claims court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or, where the claim exceeds \$1,000, in the proper district court where the claim is filed, and the suit may be commenced to enforce the lien, if the claim is then payable, immediately after the filing of the claim, or, if credit has been given, immediately after the expiry of the period of credit, and the lien shall cease unless the proceedings to enforce it are commenced within thirty days after the filing of the claim or after the expiry of the period of credit. <sup>Enforcement of liens by suit in district or small claims courts</sup>

(2) In all such suits, the person liable for the payment of the claim shall be made the party defendant. <sup>Defendant</sup>

(3) Where the defendant is not the owner of the logs, a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession, custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose. <sup>On whom writ to be served</sup>

(4) The owner may, on his own application or by direction of the judge, be made a party defendant. R.S.O. 1970, c. 504, s. 10. <sup>Owner may be made defendant</sup>

## Procedure

**11.**—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed, and no statement of claim is necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a small claims court is necessary whether the suit is brought in a district court or in a small claims court.

Where no  
defence  
filed

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

Powers of  
judge

(3) The judge may order particulars to be given or amendments to be made or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed on such terms as may appear just.

Form of  
writ and  
practice

(4) The writ or summons shall be in the form, as nearly as may be, of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the small claims court.

Service of  
process

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

Form of  
judgment

(6) The judgment shall declare that the judgment is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1970, c. 504, s. 11.

Procedure  
subsequent  
to execution  
in certain  
cases

**12.** Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1970, c. 504, s. 12.

Procedure  
attachment  
in first  
instance

**13.**—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Where  
attachment  
after action

(2) Where an attachment issues after proceedings have been commenced by writ or summons, the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1970, c. 504, s. 13.

**14.** The forms of attachment shall be as nearly as may be <sup>Forms of attachment</sup> the same as are in use in the district courts or in the small claims courts. R.S.O. 1970, c. 504, s. 14.

**15.—**(1) Whether the proceedings are commenced by <sup>Summary disposal of cases</sup> writ or summons or attachment, the judge may direct that the proceedings shall be disposed of summarily by him without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as he considers proper, and the proceedings may be so disposed of.

(2) The judge may set aside an attachment or seizure or <sup>Powers of judge</sup> direct the release of logs or timber that have been seized on such terms as he considers proper. R.S.O. 1970, c. 504, s. 15.

**16.** Where the amount of the claim does not exceed \$1,000 and <sup>When attachment to issue from small claims court</sup> is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim and showing that the claim has been filed and stating,

- (a) that he has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario; or
- (b) that the person indebted has absconded from Ontario with intent to defraud or defeat his creditors; or
- (c) that he has good reason to believe and does believe that the person indebted is selling or otherwise disposing of the logs or timber, or is about to do so, with intent to defraud or defeat his creditors; or
- (d) that the logs or timber are about to be cut into lumber or other timber so that the logs or timber cannot be identified; and
- (e) that he is in danger of losing his claim if attachment does not issue,

and, if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clause (a), (b), (c) or (d) are also filed, the clerk of the proper small claims court shall issue a warrant, as in the case of an attachment under section 159 of the *Small Claims Courts Act*, directed to the bailiff of the small claims court commanding such bailiff to attach, <sup>R.S.O. 1980, c. 476</sup> seize, take and safely keep such logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of

the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the warrant issued. R.S.O. 1970, c. 504, s. 16.

When attachment to issue out of district court

**17.**—(1) Where the amount claimed exceeds \$1,000, upon the filing of a copy of the claim and affidavit, the clerk of the district court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under section 16 and such affidavit in corroboration as is provided in section 16, shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

Subsequent seizure

(2) Where additional claims are made or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1970, c. 504, s. 17.

Warrant or writ to be served on defendant and the owner of logs

**18.**—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the district court or small claims court out of which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and, if the defendant is not the owner of the logs or timber described in the warrant or writ, a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

When order allowing service necessary

(2) When a warrant or writ is served upon a person in possession, an order of the judge allowing the service is necessary.

Service where no one in possession of logs

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber, a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any small claims court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Owner may be made a party

(4) The owner may, on his own application or by direction of the judge, be made a party defendant.



(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained, and no person is in possession of the logs or timber, the warrant or writ may be served in such manner as the judge may direct.

When defendant or owner not in Ontario, etc.

(6) Notwithstanding that a defence has not been entered, the judge may admit the defendant and the owner or either of them to make full defence upon such terms as he considers just. R.S.O. 1970, c. 504, s. 18.

Admission of parties to make defence

**19.** A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit, or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner, or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same, both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted the sheriff or bailiff may receive the logs or timber from such person, and the statutory lien of such person is not released by the holding of the sheriff or bailiff. R.S.O. 1970, c. 504, s. 19.

Logs or timber in transit within district not to be detained

**20.** The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the judge, take any proceedings that the owner of any logs or timber may take under the *Lakes and Rivers Improvement Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the judge so directs. R.S.O. 1970, c. 504, s. 20.

Separation of logs

R.S.O. 1980, c. 229

**21.** In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other

Sheriff or bailiff to restore possession upon execution of bond



suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1970, c. 504, s. 21.

Notice of  
dispute

**22.**—(1) Any person who has been served with a copy of the warrant or writ of attachment and who desires to dispute the claim shall, within fourteen days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

If no notice  
of dispute  
entered  
judgment  
may be  
entered

(2) If no notice of dispute is entered, judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1970, c. 504, s. 22.

Persons  
served with  
attachment  
may pay  
amount  
claimed  
into court

**23.**—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and is thereupon entitled to a certificate vacating the liens.

Subsequent  
procedure

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens are vacated and all further proceedings thereon shall cease, and the defendant is entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 21. R.S.O. 1970, c. 504, s. 23.

Day for  
hearing to  
be fixed by  
advertisement

**24.**—(1) After the expiration of the time within which a notice of dispute may be entered, the judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber are to appear before him for the adjustment of their claims and the settlement of accounts.

Service of  
appointment  
and advertise-  
ment

(2) The appointment shall be served upon the defendants and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

Notification  
of lien-  
holders and  
the Minister

(3) A copy of the appointment shall also be sent by registered mail to every claimant known to the plaintiff and to the Minister of Natural Resources at least two weeks before the day appointed, directed to the post office address

of such claimant where it is known and if not known then to his latest known address. R.S.O. 1970, c. 504, s. 24; 1972, c. 4, s. 12.

**25.**—(1) Upon the day named in the appointment, the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims shall attend before the judge. Parties filing notices of disputes or claims to attend on day named in appointment

(2) Where a claim is brought pursuant to the notice, it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases. Proof of claims

(3) The judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs and determine by whom the costs shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1970, c. 504, s. 25. Judge to hear all parties, take accounts, etc.

**26.**—(1) At the conclusion of the inquiry, the judge shall make his report and order which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs and, that in default of payment, the logs or timber will be sold by the sheriff or bailiff for the satisfaction thereof. Order to be made by judge at conclusion of inquiry

(2) In default of payment into court within the time named in the order, the logs or timber shall, within twenty days thereafter, be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the judge may direct. In default of payment into court logs or timber to be sold

(3) The amount realized by the sale shall, after deducting the expenses thereof and the fees and poundage of the sheriff or bailiff, be paid into court and shall be paid out by the clerk to the parties entitled thereto under the order of the judge. Application of proceeds of sale

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the judge shall apportion the amount realized *pro rata* among the claimants. Judge to apportion

(5) Where after sale and distribution any balance remains due to any person under the order of the judge, the clerk Certificate of balance due after distribution to be entered as a judgment

shall, upon application of such person, give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the district court or small claims court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1970, c. 504, s. 26.

Where  
nothing  
found due  
on inquiry,  
lien to be  
discharged

**27.** Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs that may be found due to the defendant or the owner of the logs or timber. R.S.O. 1970, c. 504, s. 27.

Costs

**28.**—(1) Where the taxed costs, exclusive of necessary disbursements, that are payable out of the amount realized for the satisfaction of the lien exceed 25 per cent of the amount realized, such costs, upon application by any party, may be reduced by the judge so that the costs will not in the aggregate exceed 25 per cent, and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

Limit of,  
where claim  
not  
contested

(2) The costs in addition to actual and necessary disbursements that may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and where the amount claimed is within the jurisdiction of the small claims court, shall not exceed \$2 where a solicitor is employed.

Where claim  
contested

(3) In case of a contest where a solicitor is employed, the judge may allow such costs not exceeding in any case \$10 when taxed on the district court scale or \$5 when taxed on the small claims court scale in addition to actual and necessary disbursements, but where the claim does not exceed \$50 such costs shall not exceed \$3.

Tariff

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1970, c. 504, s. 28.

Disposition  
of balance  
after sale and  
satisfaction  
of liens

**29.**—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims that have been proved with interest and costs, the judge, upon the application of any creditor within thirty days from the day fixed by the order for

payment, shall order that such remaining money be paid over to the sheriff who shall hold and distribute the money as provided by the *Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by the *Creditors' Relief Act* for proving claims and obtaining certificates or executions. R.S.O. 1980,  
c. 103

(2) If no such application is made to the judge within Order for  
payment such period of thirty days, the judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1970, c. 504, s. 29.

**30.** Any person affected by proceedings taken under this Act may apply to the judge to dismiss the proceedings for want of prosecution, and the judge may make such order upon the application as he considers just. R.S.O. 1970, c. 504, s. 30. Dismissal of  
proceedings  
for want of  
prosecution

**31.—(1)** Nothing in this Act deprives any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber. Other  
remedies not  
affected

(2) Where an action is brought to enforce a lien but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1970, c. 504, s. 31. Where  
lien not  
established,  
judgment  
for amount  
found due

**32.** Any number of lienholders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 7 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1970, c. 504, s. 32. Any number  
of lien-  
holders may  
join in  
proceedings

**33.** Where proceedings have been commenced in the district court and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a small claims court, the judge may order the proceedings in the small claims court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the small claims court, and thereafter all persons who have filed claims in the small claims court are entitled to prove their claims and to share in the benefit of the proceedings in the district court. R.S.O. 1970, c. 504, s. 33. Transfer of  
suit from  
small claims  
court in case  
proceedings  
taken in  
district  
court



Where suits  
in several  
courts

**34.** Where suits are brought in several district courts or in several small claims courts, the procedure under sections 24 to 26 shall be had in the district or small claims court out of which an execution or attachment first issued, unless the judge of such court otherwise orders. R.S.O. 1970, c. 504, s. 34.

Practice

**35.** The practice and procedure in actions brought in the district courts or in small claims courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1970, c. 504, s. 35.

Liability  
for loss  
occasioned by  
improper  
seizure

**36.** Any person who unlawfully and maliciously and without reasonable and probable cause takes or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold is liable therefor in an action at the suit of any person aggrieved thereby, and is also liable for all loss and damage occasioned by such seizure by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1970, c. 504, s. 36.

Illegal  
payments

**37.**—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note or other undertaking, other than a bank note or bill drawn upon or payable at or within any place out of Ontario.

Offence

(2) Every person who contravenes, or who directs or knowingly suffers his agent or servant to contravene this section is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$20. R.S.O. 1970, c. 504, s. 37.

Illegal  
payments  
not to be  
allowed as a  
defence in  
any action

**38.** No payment made or offered to be made in contravention of section 37 is a defence to an action or proceeding for the recovery of wages, or is receivable in evidence therein, nor does any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale or transfer of any instrument mentioned in section 37, in whole or in part, by the payee the consideration received by him shall be treated as payment on account. R.S.O. 1970, c. 504, s. 38.

Form of  
proceedings

**39.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may prescribe forms for the more convenient carrying out of the provisions of this Act. R.S.O. 1970, c. 504, s. 39.



FORM 1

Section 7 (1)

CLAIM OF LIEN

A. B. (name of claimant) of (state residence of claimant), (if claim made as assignee then say as assignee of, giving name and address of assignor) under the Woodmen's Lien for Wages Act, claims a lien upon certain logs or timber of (here state the name and residence of the owner of logs or timber upon which the lien is claimed if known) which logs or timber are composed of (state the kinds of logs or timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim) in respect of the following work, that is to say, (here give a short description of the work done for which the lien is claimed) which work was done for (here state the name and residence of the person upon whose credit the work was done) between the ..... day of ..... and the ..... day of ..... at ..... per (month or day as the case may be).

The amount claimed as due (or to become due) is the sum of ..... (and when credit has been given, the said work was done on credit, and the period of credit will expire on the..... day of .....).

Dated at.....this.....day of.....,19.....

(Signature of Claimant)

R.S.O. 1970, c. 504, Form 1.

FORM 2

Section 7 (2)

AFFIDAVIT TO BE ATTACHED TO CLAIM

I, ....., make oath and say that I have read (or have heard read) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which (naming the debtor) is entitled to credit.

Sworn before me at . . . . . in the district }  
of . . . . . this . . . . . day of . . . . ., 19.... }

A Commissioner

R.S.O. 1970, c. 504, Form 2.



## CHAPTER 538

### Wool Marketing Act

#### 1. In this Act,

Interpreta-  
tion

- (a) “Association” means the Ontario Sheep Association incorporated under the *Agricultural Associations Act*; R.S.O. 1980,  
c. 8
- (b) “buyer” means a person engaged in buying wool from producers of wool in Ontario;
- (c) “inspector” means an inspector appointed for the purposes of this Act;
- (d) “licence” means a licence issued under this Act;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “regulations” means the regulations made under this Act. 1974, c. 56, s. 1.

**2.**—(1) The purpose and intent of this Act is to provide Purpose and  
intent of  
Act for the financing of the Association so it may expend moneys to advance the production of sheep and wool in all its branches and improve the marketing of wool by,

- (a) holding meetings for the consideration of questions relating to the production of sheep and wool and the marketing of wool;
- (b) co-operating with organizations of producers of agricultural products;
- (c) collecting, arranging, assembling and disseminating information;
- (d) stimulating, increasing and improving the sale of wool in Ontario through advertising, education, research and other means; and
- (e) making representations to all levels of government and to agencies of government.

Use of  
licence  
fees by  
Association

(2) The Association may use licence fees paid to it under this Act for defraying the expenses of the Association in doing any thing referred to in subsection (1) and in carrying out its objects. 1974, c. 56, s. 2.

Licences

**3.**—(1) Except under the authority of a licence, no person shall sell wool to a buyer.

Idem

(2) Every person who sells wool to a buyer shall be deemed to be the holder of a licence, except when in default of payment of licence fees prescribed under this Act.

Refund of  
licence  
fees

(3) Every person who is the holder of a licence under this section may apply for a refund of any licence fees paid by him to the Association under this Act.

Idem

(4) Every application for a refund shall be made in the manner prescribed in the regulations.

Idem

(5) Where the Association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations, and, in any case, not later than six months after receipt of the application therefor.

Producer-  
buyer

(6) Any person who is a producer and buyer is entitled in his respective capacities as a producer and as a buyer to all the rights and privileges and is subject to all the duties and obligations of a producer and of a buyer.

Idem

(7) Any person who is a producer and a buyer shall be deemed to have received in his capacity as a buyer from himself in his capacity as a producer the wool produced by him that he buys, and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that this Act and the regulations thereunder apply. 1974, c. 56, s. 3.

Recommendations by  
directors of  
Association

**4.** Where the board of directors of the Association is of the opinion that a majority of the members of the Association are in favour thereof, the board of directors may recommend through the Minister to the Lieutenant Governor in Council the making, amending or revoking of regulations respecting any of the matters set forth in section 5. 1974, c. 56, s. 4.

Regulations

**5.**—(1) Notwithstanding section 4, the Lieutenant Governor in Council may make regulations,

- (a) fixing the amount of licence fees up to but not exceeding 11 cents per kilogram of wool;
- (b) requiring persons to pay licence fees owing by them;
- (c) requiring any buyer who receives wool from a seller thereof to deduct, from the moneys payable to the seller, any licence fee payable by the seller to the Association, and to forward such licence fees to the Association;
- (d) providing for the recovery by the Association of licence fees owing to the Association by suit in a court of competent jurisdiction;
- (e) prescribing the manner in which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (f) providing for the exemption from any or all of the regulations of any wool or class thereof or any person or class of persons;
- (g) prescribing the duties of inspectors;
- (h) prescribing forms and providing for their use. 1974, c. 56, s. 5 (1); 1978, c. 87, s. 10.

(2) Any regulation may be limited as to time or place, <sup>Application of regulations</sup> or to both.

(3) Any word or expression used in a regulation may <sup>Definitions</sup> be defined in the regulation for the purposes of the regulation. 1974, c. 56, s. 5 (2, 3).

**6.** The Lieutenant Governor in Council may appoint <sup>Appointment of inspectors</sup> inspectors for the purposes of this Act. 1974, c. 56, s. 6.

**7.**—(1) For the purpose of enforcing this Act and the <sup>Powers of inspector</sup> regulations, an inspector may enter any premises, other than a dwelling, that he has reason to believe is used by a buyer for receiving, assembling or storing wool or an office used in connection therewith during normal business hours.

(2) For the purpose of enforcing this Act and the <sup>Production of documents</sup> regulations, an inspector may demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom, in a place referred to in subsection (1), relating to wool.



Idem

(3) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector, and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Photocopy  
as evidence

(4) Where a book, record, document or extract has been photocopied under subsection (3), a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection (3) is admissible in evidence, and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to  
be in  
writing

(5) Where an inspector makes a demand under subsection (2), the demand shall be in writing and shall include a statement of the nature of the investigation, and the general nature of the books, records, documents or extracts required.

Obstruction  
of inspector

(6) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information relating to the duties of the inspector under this section. 1974, c. 56, s. 7.

Certificate  
of appoint-  
ment of  
inspector

**8.** The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of the facts stated in the certificate, and of the authority of the inspector to exercise the powers and perform the duties prescribed in this Act and the regulations. 1974, c. 56, s. 8.

Offences

**9.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$100 and for a subsequent offence to a fine of not more than \$500. 1974, c. 56, s. 9.

## CHAPTER 539

## Workmen's Compensation Act

## 1.—(1) In this Act,

Interpre-  
tation

## (a) "accident" includes,

- (i) a wilful and intentional act, not being the act of the employee,
- (ii) a chance event occasioned by a physical or natural cause, and
- (iii) disablement arising out of and in the course of employment; R.S.O. 1970, c. 505, s. 1 (1), cl. (a); 1973, c. 173, s. 1.

(b) "accident fund" means the fund provided for the payment of compensation, outlays and expenses under this Act in respect of Schedule 1, the salaries of the commissioners and all expenses arising out of the establishment, maintenance and operation of mine rescue stations as provided by the regulations under the *Occupational Health and Safety Act*;

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(c) "Board" means the Workmen's Compensation Board;

(d) "common-law wife" means a woman who, although not legally married to a man, cohabits with him and is recognized as his wife in the community in which they live;

(e) "construction" includes reconstruction, repair, alteration and demolition; R.S.O. 1970, c. 505, s. 1 (1), cls. (b-e).

(f) "dependants" means such of the members of the family of an employee as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent; R.S.O. 1970, c. 505, s. 1 (1), cl. (f); 1973, c. 173, s. 1.

- (g) "dependent widow" means the woman who was the legal wife and a dependant of an employee immediately before his death; R.S.O. 1970, c. 505, s. 1 (1), cl. (g); 1973, c. 173, s. 1.
- (h) "dependent widower" means the man who was the legal husband and a dependant of an employee immediately before her death; 1973, c. 173, s. 2 (1).
- (i) "earnings" and "wages" include any remuneration capable of being estimated in terms of money; R.S.O. 1970, c. 505, s. 1 (1), cl. (h).
- (j) "employee" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner, a member of a municipal volunteer fire brigade, a member of a municipal volunteer ambulance brigade, an auxiliary member of a police force, a person deemed to be an employee under section 11, and a person who is summoned to assist in controlling and extinguishing a fire under the *Forest Fires Prevention Act* or who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, but where used in Part I does not include an outworker, or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business; 1975, c. 47, s. 1 (1).
- (k) "employer" includes every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes the Crown in right of Ontario and any permanent board or commission appointed by the Crown in right of Ontario and includes a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause (n), and, where the services of an employee are temporarily lent or hired to another person by the person with whom the employee has entered into such a contract, the latter is deemed to continue to be the employer of the employee while he is working for that other person; R.S.O. 1970, c. 505, s. 1 (1), cl. (i); 1973, c. 173, s. 1.

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- (l) "employment" includes employment in an industry or any part, branch or department of an industry; R.S.O. 1970, c. 505, s. 1 (1), cl. (j).
- (m) "independent operator" means a person who carries on an industry set out in Schedule 1 and who does not employ any employees for that purpose; R.S.O. 1970, c. 505, s. 1 (1), cl. (k); 1973, c. 173, s. 1.
- (n) "industrial disease" means any of the diseases mentioned in Schedule 3 and any other disease peculiar to or characteristic of a particular industrial process, trade or occupation;
- (o) "industry" includes establishment, undertaking, trade and business;
- (p) "invalid" means physically or mentally incapable of earning;
- (q) "learner" means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of Part I for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment;
- (r) "manufacturing" includes making, preparing, altering, repairing, ornamenting, printing, finishing, packing, packaging, inspecting, testing, assembling the parts of and adapting for use or sale any article or commodity or raw material;
- (s) "medical referee" means a medical referee appointed by the Board; R.S.O. 1970, c. 505, s. 1 (1), cls. (l-q).
- (t) "member of the family" means a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the employee or to whom the employee stood *in loco parentis*, whether related to him by consanguinity or not so related, and includes a common-law wife; R.S.O. 1970, c. 505, s. 1 (1), cl. (r); 1973, c. 173, s. 1; 1977, c. 41, s. 24.

- (u) "member of a municipal volunteer fire brigade" means a person whose membership has been approved either by the chief of the fire department of a corporation, commission or board mentioned in subsection (3) or by a duly authorized official thereof;
- (v) "outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;
- (w) "regulations" means the regulations made under this Act;
- (x) "silicosis" means a fibrotic condition of the lungs sufficient to produce a lessened capacity for work, caused by the inhalation of silica dust;
- (y) "superannuation fund" means The Workmen's Compensation Board Superannuation Fund. R.S.O. 1970, c. 505, s. 1 (1), cls. (s-w); 1975, c. 47, s. 1 (2).

Persons who  
assist in fire  
fighting

(2) For the purposes of this Act, every person,

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- (a) who is summoned and assists in controlling and extinguishing a fire under the *Forest Fires Prevention Act* shall, while so engaged, be deemed to be an employee of the Crown in right of Ontario; or
- (b) who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force, shall be deemed to be an employee of the Crown in right of Ontario while so engaged,

and his earnings for compensation purposes shall be the rate of earnings established at his regular employment under section 45. R.S.O. 1970, c. 505, s. 1 (2); 1975, c. 47, s. 1 (3).

Municipal  
corporations,  
etc., and  
school  
boards

(3) The exercise and performance of the powers and duties of,

- (a) a municipal corporation;



- (b) a public utilities commission or any other commission or any board having the management and conduct of any work or service owned by or operated for a municipal corporation except a hospital board;
- (c) a public library board;
- (d) the board of trustees of a police village; and
- (e) a school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board, board of trustees or school board. R.S.O. 1970, c. 505, s. 1 (3).

(4) For the purposes of this Act, a municipal corporation, commission or board mentioned in subsection (3) shall be deemed to be the employer of a member of a municipal volunteer fire or ambulance brigade and such employment shall be deemed to be included in the exercise and performance of the powers and duties of the corporation, commission or board and it shall yearly, on or before such date as the Board may prescribe or at such other times as the Board may prescribe, notify the Board, specifying the number of volunteers engaged and shall select such amount of coverage for such volunteers, which in no case shall be less than a rate which will provide the minimum amount of compensation under section 44 or more than the maximum rate of annual earnings established by subsection 45 (1). 1973, c. 173, s. 2 (2).

**2.** A reference in this Act to Schedule 1, 2 or 3 is a reference to Schedule 1, 2 or 3, as the case may be, in the regulations. R.S.O. 1970, c. 505, s. 2.

## PART I

### COMPENSATION

**3.—(1)** Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of the employment is caused to an employee, his employer is liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned, except where the injury,

- (a) does not disable the employee beyond the day of accident from earning full wages at the work at which he was employed; or

(b) is attributable solely to the serious and wilful misconduct of the employee unless the injury results in death or serious disablement. R.S.O. 1970, c. 505, s. 3 (1); 1973, c. 173, s. 1.

Presump-  
tions

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

When com-  
pensation  
to date from

(3) Compensation for disability shall be computed and payable from and including the day following the day of the accident or from the date of the disability, whichever is the later. R.S.O. 1970, c. 505, s. 3 (2, 3).

Employers  
liable to  
contribute  
to the  
accident  
fund

4. Employers in the industries for the time being included in Schedule 1 are liable to contribute to the accident fund as hereinafter provided, but are not liable individually to pay compensation. R.S.O. 1970, c. 505, s. 4.

Employers  
individually  
liable

5. Employers in the industries for the time being included in Schedule 2 are liable individually to pay compensation and medical aid. R.S.O. 1970, c. 505, s. 5.

Accident  
while  
employee  
employed  
outside  
Ontario

6.—(1) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the employee are in Ontario and an accident happens while the employee is employed out of Ontario and his employment out of Ontario has lasted less than six months, the employee is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario. R.S.O. 1970, c. 505, s. 6 (1); 1973, c. 173, s. 1.

Accident  
while  
employee  
employed  
outside  
Ontario for  
6 or more  
months

(2) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the employee are in Ontario and the employment of the employee out of Ontario lasts or is likely to last six or more months, the employer may apply to the Board to be assessed on the earnings of such employee and, if the application is accepted by the Board and if the employee is injured by accident happening out of Ontario, the employee is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario. R.S.O. 1970, c. 505, s. 6 (2); 1973, c. 173, s. 1.

(3) Where the place of business or chief place of business of the employer is situate in Ontario and the residence of the employee is out of Ontario but his usual and principal place of employment is in Ontario and an accident happens while the employee is out of Ontario merely for some temporary purpose connected with his employment, the employee is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario. R.S.O. 1970, c. 505, s. 6 (3); 1973, c. 173, s. 1.

(4) Where an accident happens out of Ontario and the employer's place of business or chief place of business is situate out of Ontario and the employee is entitled to compensation under the law of the place where the accident happens, compensation is not payable to the employee or his dependants whether his residence is in or out of Ontario unless his place of employment is in Ontario and he is at the time of the accident out of Ontario merely for some casual or incidental purpose connected with his employment. R.S.O. 1970, c. 505, s. 6 (4); 1973, c. 173, s. 1.

(5) Where an accident happens out of Ontario on a steamboat, ship or vessel, or on a railway or on an aircraft, or on a truck, bus or other vehicle used in the transportation of passengers or any goods or substance, and the residence of the employee is in Ontario and the work or service rendered by him is required to be performed both in and out of Ontario, the employee is or his dependants are entitled to compensation under this Part as if the accident had happened in Ontario. R.S.O. 1970, c. 505, s. 6 (5); 1973, c. 173, s. 1.

(6) Where an accident happens out of Ontario on a steamboat, ship or vessel and the residence of the employee is in Ontario, and whether he had been employed previously in Ontario or not, and regardless of the duration of his employment out of Ontario, the employee is or his dependants are entitled to compensation under this Part if the steamboat, ship or vessel is registered in Canada or if the owner or charterer of the steamboat, ship or vessel has his chief place of business in Ontario. R.S.O. 1970, c. 505, s. 6 (6); 1973, c. 173, s. 1.

(7) Except as provided in this section, no compensation is payable under this Part where the accident to the employee happens while he is employed elsewhere than in Ontario. R.S.O. 1970, c. 505, s. 6 (7); 1973, c. 173, s. 1.

(8) With a view to avoiding duplication of assessments to which an employer may be liable on the earnings of

employees who are employed part of the time in Ontario and part of the time in another province or territory of Canada, the Board may make an agreement with the employees' compensation authority of that province or territory for such adjustment of assessments as is equitable and may reimburse such other authority for any payment of compensation, rehabilitation or medical aid made by it under such agreement, and may, in order to give effect to any such agreement, relieve any such employer from assessment or reduce the amount thereof. R.S.O. 1970, c. 505, s. 6 (8); 1973, c. 173, s. 1.

Where compensation payable by law of foreign country, employee to elect

7.—(1) Where by the law of the country or place in which the accident happens the employee is or his dependants are entitled to compensation in respect of it, they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and, if such election is not made and notice given, it shall be presumed that they have elected not to claim compensation under this Part. R.S.O. 1970, c. 505, s. 7 (1); 1973, c. 173, s. 1.

How election to be made

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer and, where the compensation is payable out of the accident fund, to the Board, and shall be given in both cases within three months after the happening of the accident or, in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow. R.S.O. 1970, c. 505, s. 7 (2).

Where employee entitled to action against person other than employer

8.—(1) Where an accident arising out of and in the course of his employment happens to an employee under such circumstances as entitle him or his dependants to an action against some person other than his employer, the employee or his dependants, if entitled to benefits under this Part, may claim such benefits or may bring such action. R.S.O. 1970, c. 505, s. 8 (1); 1973, c. 173, s. 1.

Employee entitled to difference between benefits and amount collected

(2) If less is recovered and collected by a judgment in the action or by settlement than the amount of benefits to which the employee or his dependants are entitled under this Part, the difference between the amount recovered and collected and the amount of such benefits is payable to the employee or his dependants. R.S.O. 1970, c. 505, s. 8 (2); 1973, c. 173, s. 1.

Settlements to be approved

(3) Subsection (2) applies to a settlement only if the approval of the Board to such settlement has been given before the settlement is made. R.S.O. 1970, c. 505, s. 8 (3).



(4) If the employee or his dependants elect to claim benefits under this Act, the employer, if he is individually liable to pay it, and the Board, if the compensation is payable out of the accident fund, are subrogated to all rights of the employee or his dependants in respect of the injury to the employee and may maintain an action in the name of the employee, or of the Board if the employer is in Schedule 1, or of the employer if he is in Schedule 2, against the person against whom the action lies and any amount recovered over and above all amounts expended by the Board or the employer in respect of such claim and action shall be paid to the employee or his dependants and any such surplus paid to the employee or his dependants shall be deducted from the amount of any future compensation or other benefits to which he or they may become entitled in respect of the accident that gave rise to the injury. R.S.O. 1970, c. 505, s. 8 (4); 1973, c. 173, s. 1.

Subrogation  
of employer  
or Board to  
rights of  
employee

(5) The employer in Schedule 2 or the Board may, in the action under subsection (4), also recover any amounts expended on behalf of the employee or his dependants by way of compensation or other benefits and has the exclusive right to determine whether such action shall be maintained, abandoned or compromised. R.S.O. 1970, c. 505, s. 8 (5); 1973, c. 173, s. 1.

Recovery of  
amounts of  
benefits

(6) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7. R.S.O. 1970, c. 505, s. 8 (6).

How election  
to be made

(7) If an employee or a dependant is under the age of eighteen years, the election under subsection (1) may be made on his behalf by a parent or guardian or by the Official Guardian. R.S.O. 1970, c. 505, s. 8 (7); 1971, c. 98, s. 4; 1973, c. 173, s. 1.

Where  
employee or  
dependant  
is a minor

(8) If an employee is mentally incapable of making the election under subsection (1) or is unconscious as a result of his injury and no committee has been appointed, his dependent spouse may make such election, but if no election is made within sixty days after the day of the injury, the Public Trustee shall elect on behalf of the injured employee. R.S.O. 1970, c. 505, s. 8 (8); 1973, c. 173, s. 1.

Where  
employee is  
incapable  
of making  
election

(9) No employer in Schedule 1 and no employee of an employer in Schedule 1 or dependant of such employee has a right of action for damages against any employer in Schedule 1 or any employee of such employer, for an injury for which benefits are payable under this Act, where the employees of both employers were in the course of their employment at the time of the happening of the injury,

Right of  
action as  
against  
employer in  
Schedule 1



but, in any case where the Board is satisfied that the accident giving rise to the injury was caused by the negligence of some other employer or employers in Schedule 1 or their employees, the Board may direct that the benefits awarded in any such case or a proportion of them shall be charged against the class or group to which such other employer or employers belong and to the accident cost record of such individual employer or employers. R.S.O. 1970, c. 505, s. 8 (9); 1973, c. 173, s. 1.

**Exception**

(10) Subsection (9) does not apply where the employer has supplied a motor vehicle, machinery or equipment on a purchase or rental basis without also supplying employees to operate such motor vehicle, machinery or equipment. R.S.O. 1970, c. 505, s. 8 (10); 1973, c. 173, s. 1.

**Damages**

(11) In any action brought by an employee of an employer in Schedule 1 or dependant of such employee in any case within subsection (1) or maintained by the Board under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the employee in Schedule 1, or any other employer in Schedule 1, or any employee of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the employee in Schedule 1, or of any other employer in Schedule 1, or of any employee of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the employee in Schedule 1, or of any other employer in Schedule 1, or of the employee or any employer in Schedule 1, shall be determined although such employer or employee is not a party to the action. R.S.O. 1970, c. 505, s. 8 (11); 1973, c. 173, s. 1.

**Idem**

(12) In any action brought by an employee of an employer in Schedule 2 or dependant of such employee in any case within subsection (1) or maintained by the employer of the employee under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the employee in Schedule 2, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer and the portion of the loss or damage so caused by the fault or negligence of such employer shall be determined although such employer is not a party to the action. R.S.O. 1970, c. 505, s. 8 (12); 1973, c. 173, s. 1.

**Employers  
and  
contractors**

**9.**—(1) The employees of a contractor or subcontractor executing any work in or for the purposes of an industry under this Part, carried on by another person, in this subsection and in subsection (2) referred to as the principal, shall

be deemed to be the employees of the principal unless such contractor or subcontractor is, in respect of such work, assessed, or added and assessed, as the case may be, as an employer in Schedule 1, or, in cases where such contractor or subcontractor is, in respect of such work, individually liable for payment of compensation, unless the Board finds and declares that the responsibility of such contractor or subcontractor is sufficient protection to his employees for the benefits provided for by this Act. R.S.O. 1970, c. 505, s. 9 (1); 1973, c. 173, s. 1.

(2) Where a principal has made payment of assessment or compensation or furnished medical aid that, but for subsection (1), he would not have been liable to pay or furnish, he is entitled to reimbursement from the contractor or subcontractor to such extent as the Board finds such contractor or subcontractor would have been liable.

Right of principal employer to reimbursement from contractor

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this subsection and in subsection (4) referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it is the duty of the principal to see that any sum that the contractor or any subcontractor is liable to contribute to the accident fund is paid, and, if any such principal fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Liability of principal to pay assessments

(4) Where the principal is liable to make payment to the Board under subsection (3), he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. R.S.O. 1970, c. 505, s. 9 (2-4).

Right of indemnity

(5) Nothing in this section prevents an employee claiming compensation or the Board collecting contribution to the accident fund from the contractor or any subcontractor instead of the principal. R.S.O. 1970, c. 505, s. 9 (5); 1973, c. 173, s. 1.

Liability of contractor or subcontractor to contribute

**10.**—(1) Where a licence is granted under the *Crown Timber Act* and timber is cut by a person other than the licensee, it is the duty of the licensee to see that any sum that the person engaged in the cutting of such timber is liable to contribute to the accident fund is paid and, if

Liability of licensee to pay assessments  
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the licensee fails to do so, he is personally liable to pay such sum to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Right of indemnity

(2) Where the licensee is liable to make payment to the Board under subsection (1), he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. R.S.O. 1970, c. 505, s. 10.

Person may be deemed to be employee

**11.**—(1) On application, an employer, an independent operator, a person the Board deems to be an employer, or an executive officer of a corporation may elect to be deemed an employee for the purposes of this Act, provided that,

- (a) he is carried on the payroll of the business at his actual earnings for the year, or files with the Board a statement of his estimated earnings for the year which is acceptable to the Board; and
- (b) he consents to the application.

Idem

(2) A person shall not be deemed under subsection (1) to be an employee unless the rate of his estimated or actual earnings yields the minimum amount of compensation provided by section 44.

Entitlement to compensation

(3) No person deemed an employee under subsection (1) shall be entitled to more compensation than the maximum provided by sections 39 and 45. 1975, c. 47, s. 2.

No action to be brought to recover compensation

**12.** No action lies for the recovery of compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board. R.S.O. 1970, c. 505, s. 12.

Where employee residing out of Ontario entitled to compensation

**13.** If an employee receiving a weekly or other periodical payment ceases to reside in Ontario, he is not thereafter entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature, and, if a medical referee so certifies and the Board so directs, the employee is entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the regulations his identity and the continuance of the disability in respect of which the same is payable. R.S.O. 1970, c. 505, s. 13; 1973, c. 173, s. 1.

**14.** The provisions of this Part are in lieu of all rights and rights of action, statutory or otherwise, to which an employee or the members of his family are or may be entitled against the employer of such employee for or by reason of any accident happening to him or any industrial disease contracted by him on or after the 1st day of January, 1915, while in the employment of such employer, and no action lies in respect thereof. R.S.O. 1970, c. 505, s. 14; 1973, c. 173, s. 1.

Provisions of Act in lieu of all rights of action against employer

**15.** Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination is final and conclusive. R.S.O. 1970, c. 505, s. 15.

Determination of employee's right to bring action

**16.** It is not competent for an employee to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end is void. R.S.O. 1970, c. 505, s. 16; 1973, c. 173, s. 1.

Right to compensation may not be waived

**17.—(1)** Where the compensation is payable by an employer individually, no agreement between an employee or dependant and the employer for fixing the amount of the compensation or by which the employee or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it is binding on the employee or dependant unless it is approved by the Board. R.S.O. 1970, c. 505, s. 17 (1); 1973, c. 173, s. 1.

Agreement as to compensation not valid unless approved by the Board

(2) Subsection (1) does not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the employee or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just. R.S.O. 1970, c. 505, s. 17 (2); 1973, c. 173, s. 1.

Idem

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the employee or dependant has become entitled because of it. R.S.O. 1970, c. 505, s. 17 (3); 1973, c. 173, s. 1.

Idem

**18.—(1)** It is not lawful for an employer, either directly or indirectly, to deduct from the wages of any of his employees any part of any sum that the employer is or may become liable to pay to the employee as compensation

Deduction not to be made from wages



under this Part or to require or to permit any of his employees to contribute in any manner towards indemnifying the employer against any liability that he has incurred or may incur under this Part. R.S.O. 1970, c. 505, s. 18 (1); 1973, c. 173, s. 1.

**Offence**

(2) Every person who contravenes any of the provisions of subsection (1) is guilty of an offence and for every such contravention is on conviction liable to a fine of not more than \$50 and is also liable to repay to the employee any sum that has been so deducted from his wages or that he has been required or permitted to pay in contravention of subsection (1). R.S.O. 1970, c. 505, s. 18 (2); 1973, c. 173, s. 1.

**Compensation not assignable or liable to attachment**

**19.** Unless with the approval of the Board, no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it is capable of being assigned, charged or attached, nor does it pass by operation of law except to a personal representative nor shall any claim be set off against it. R.S.O. 1970, c. 505, s. 19.

**Notice of accident**

**20.—**(1) Subject to subsection (5), compensation or medical aid is not payable unless notice of the accident is given as soon as practicable after the happening of it and before the employee has voluntarily left the employment in which he was injured and unless the claim for compensation or medical aid is made within six months from the happening of the accident or, in case of death, within six months from the time of death. R.S.O. 1970, c. 505, s. 20 (1); 1973, c. 173, s. 1.

**Nature of notice**

(2) The notice shall give the name and address of the employee and is sufficient if it states in ordinary language the cause of the injury and where the accident happened. R.S.O. 1970, c. 505, s. 20 (2); 1973, c. 173, s. 1.

**Service of notice**

(3) The notice may be served by delivering it at or sending it by registered mail addressed to the place of business or the residence of the employer or, where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered mail addressed to the employer at the office or, if there are more offices than one, at any of the offices of such body of persons.

**Notice to Board**

(4) The notice shall also be given to the Board by delivering it to or at the office of the secretary or by sending it to him by registered mail addressed to his office.



(5) Failure to give the prescribed notice or to make such claim or any defect or inaccuracy in a notice does not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or, where the compensation is payable out of the accident fund, if the Board is of opinion that the claim for compensation is a just one and ought to be allowed. R.S.O. 1970, c. 505, s. 20 (3-5).

Failure to give, or defect in notice not to affect right to compensation in certain cases

**21.**—(1) An employee who claims compensation or to whom compensation is payable under this Part shall, if so required by his employer, submit himself for examination by a legally qualified medical practitioner provided and paid for by the employer and shall, if so required by the Board, submit himself for examination by a medical referee. R.S.O. 1970, c. 505, s. 21 (1); 1973, c. 173, s. 1.

Employee to submit to examination

(2) An employee shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the regulations. R.S.O. 1970, c. 505, s. 21 (2); 1973, c. 173, s. 1.

In accordance with regulations

**22.**—(1) Where an employee has upon the request of his employer submitted himself for examination, or has been examined by a legally qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the employee's condition has been furnished in the former case by the employer to the employee and in the latter case by the employee to the employer, the Board may, on the application of either of them or of its own motion, refer the matter to a medical referee. R.S.O. 1970, c. 505, s. 22 (1); 1973, c. 173, s. 1.

In case of difference between medical examiners, etc., reference may be made to medical referee

(2) The medical referee to whom a reference is made under subsection (1), or who has examined the employee by the direction of the Board under subsection 21 (1), shall certify to the Board as to the condition of the employee and his fitness for employment, specifying where necessary the kind of employment and, if unfit, the cause of such unfitness, and his certificate unless the Board otherwise directs is conclusive as to the matters certified. R.S.O. 1970, c. 505, s. 22 (2); 1973, c. 173, s. 1.

Certificate of medical referee

(3) If an employee does not submit himself for examination when required to do so as provided by subsection 21 (1), or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection (1) of this section, or in any way obstructs any examination, his right to

Failure to submit to examination or obstructing it

compensation or, if he is in receipt of a weekly or other periodical payment, his right to it is suspended until such examination has taken place. R.S.O. 1970, c. 505, s. 22 (3); 1973, c. 173, s. 1.

Special  
medical  
treatment  
in certain  
cases

**23.** Where in any case, in the opinion of the Board, it is in the interest of the accident fund to provide a special surgical operation or special medical treatment for an employee, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. R.S.O. 1970, c. 505, s. 23; 1973, c. 173, s. 1.

Review of  
compensa-  
tion

**24.** Any weekly or other periodical payment to an employee may be reviewed at the request of the employer or the employee or of the Board's own motion and on such review the Board may put an end to or diminish or increase such payment to a sum not beyond the maximum hereinafter prescribed. R.S.O. 1970, c. 505, s. 24; 1973, c. 173, s. 1.

Increase of  
compensa-  
tion to  
employee  
under 21

**25.** Where the employee was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident, the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what, if he had not been injured, he would probably have been earning at the date of the review. R.S.O. 1970, c. 505, s. 25; 1973, c. 173, s. 1.

Commuta-  
tion of  
payments

**26.**—(1) Where the compensation is payable by an employer individually or out of the accident fund, the Board may commute the weekly or other periodical payments payable to an employee or dependant for a lump sum, and may charge the same to the employer or to the accident fund, as the case may be. R.S.O. 1970, c. 505, s. 26 (1); 1973, c. 173, s. 1.

Lump sum  
to be paid  
to Board

(2) Where the lump sum is payable by the employer individually, it shall be paid to the Board. R.S.O. 1970, c. 505, s. 26 (2).

Application  
of lump  
sum

(3) The lump sum may be,

(a) applied in such manner as the employee or dependant may direct;

(b) paid to the employee or dependant;

- (c) invested by the Board and applied from time to time as the Board may deem most for the advantage of the employee or dependant;
- (d) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the employee or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the employee or dependant and approved by the Board;
- (e) applied partly in one and partly in another or others of the modes mentioned in clauses (a), (b), (c) and (d),

as the Board may determine. R.S.O. 1970, c. 505, s. 26 (3); 1973, c. 173, s. 1.

(4) In any case where compensation is payable and the Board is of the opinion that the interest or pressing need of the employee or dependant warrants it, the Board may advance or pay to or for the employee or dependant such lump sum as the circumstances warrant. 1973, c. 173, s. 4.

**27.**—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal either to 75 per cent of the annual value or the full annual value of the weekly or other periodical payments and, in other cases, of such an amount as the Board considers reasonable.

(2) The sum for which a payment is commuted under subsection (1) shall be paid to the Board and shall be dealt with in the manner provided by section 26. R.S.O. 1970, c. 505, s. 27.

**28.**—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to an employee or his dependants and the payment has continued for more than six months, the liability shall, if the Board so directs before the expiration of twelve months from the commencement of the disability of the employee or his death, if the accident

resulted in death, be commuted by the payment of a lump sum in accordance with section 27, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 26. R.S.O. 1970, c. 505, s. 28 (1); 1973, c. 173, s. 1.

Where section  
not to apply

(2) This section does not apply to a contract of insurance entered into before the 1st day of May, 1914. R.S.O. 1970, c. 505, s. 28 (2).

Board may  
require  
employer to  
pay sum  
sufficient to  
commute

**29.** The Board may require an employer, who is individually liable to pay the compensation, to pay to the Board a sum sufficient to commute, in accordance with section 27, any weekly or other periodical payments that are payable by the employer, and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but, if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments, the employer is nevertheless liable to make such of them as fall due after the sum paid to the Board is exhausted and, if the sum paid is more than sufficient for that purpose, the excess shall be returned to the employer when the right to compensation comes to an end, unless otherwise ordered by the Board. R.S.O. 1970, c. 505, s. 29.

Board may  
require  
employer to  
insure his  
employees

**30.** The Board may require an employer, who is individually liable, to pay the compensation to insure his employees and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct and, in default of his doing so, the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. R.S.O. 1970, c. 505, s. 30; 1973, c. 173, s. 1.

Where  
employer  
insured,  
Board  
may require  
insurer to  
pay amount  
payable to  
employer  
directly to  
Board

**31.**—(1) Where an employer, who is individually liable to pay the compensation, is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum that under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to an employee who becomes or whose dependants become entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such employee or his dependants are found to be entitled. R.S.O. 1970, c. 505, s. 31 (1); 1973, c. 173, s. 1.



(2) Where a claim for compensation is made in any case to which subsection (1) applies, notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the employee or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection (1). R.S.O. 1970, c. 505, s. 31 (2); 1973, c. 173, s. 1.

Notice to be  
given to  
insurer

(3) Section 26 applies to the compensation payable to the Board under subsection (1). R.S.O. 1970, c. 505, s. 31 (3).

Section 26  
to apply

**32.**—(1) Where the accident causes total or partial permanent disability or the death of the employee and the compensation is payable by the employer individually, the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient, with the interest thereon, to meet the future payments to be made to the employee or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments. R.S.O. 1970, c. 505, s. 32 (1); 1973, c. 173, s. 1.

In case of  
permanent  
disability  
employer  
may be  
required to  
pay capital  
sum

(2) Instead of requiring the employer to make the payment provided for by subsection (1), the Board may require him to give such security as it considers sufficient for the future payments. R.S.O. 1970, c. 505, s. 32 (2).

or to give  
security for  
payment  
of com-  
pensation

**33.** Where the Board considers it requisite for the prompt payment of claims, it may require any employer in Schedule 2 to make deposits of money with it from time to time, out of which it may pay compensation and medical aid for accidents to employees of such employer as they occur. R.S.O. 1970, c. 505, s. 33; 1973, c. 173, s. 1.

Requiring  
deposits by  
employers in  
Schedule 2

**34.**—(1) The additional moneys necessary to provide for increases of compensation in respect of accidents previously happening may be levied and collected by the Board from the employers either now, previously or hereafter carrying on industries under this Part in such manner and at such time or times as the Board considers most equitable and most in accordance with the general principles of this Act, and, in the case of Schedule 1 employers, the levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assessments, and, in the case of Schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases.

Provision  
for funds  
to pay  
increased  
compensation



Power to  
grant  
exemptions  
in certain  
cases

(2) Where by reason of limit of legal liability or for other cause the Board considers it inequitable or inexpedient to apply subsection (1) to any pension award, the Board has power to exempt the same accordingly. R.S.O. 1970, c. 505, s. 34.

Compensa-  
tion not  
payable  
during  
suspension

**35.** Where a right to compensation is suspended under this Part, no compensation is payable in respect of the period of suspension. R.S.O. 1970, c. 505, s. 35.

#### SCALE OF COMPENSATION

Compensa-  
tion in case  
of death

**36.—**(1) Where death results from an injury, the amount of the compensation shall be,

- (a) the necessary expenses of the burial or cremation of the employee, not exceeding \$1,000;
- (b) where owing to the circumstances of the case the body of the employee is transported for a considerable distance for burial or cremation, a further sum for necessary extra expenses of the burial or cremation thus entailed;
- (c) where the widow or widower is the sole dependant, a monthly payment of,
  - (i) \$372, effective the 1st day of July, 1978, and
  - (ii) \$410, effective the 1st day of July, 1979;
- (d) where the dependants are a widow or a widower and one or more children, a monthly payment of,
  - (i) \$372 with an additional monthly payment of \$101 to be increased upon the death of the widow or widower to \$115 for each child under the age of sixteen years, effective the 1st day of July, 1978, and
  - (ii) \$410 with an additional monthly payment of \$112 to be increased upon the death of the widow or widower to \$127 for each child under the age of sixteen years, effective the 1st day of July, 1979;
- (e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of,
  - (i) \$115, effective the 1st day of July, 1978, and

(ii) \$127, effective the 1st day of July, 1979;

(f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole,

(i) \$372 a month effective the 1st day of July, 1978, and

(ii) \$410 a month effective the 1st day of July, 1979.  
R.S.O. 1970, c. 505, s. 36 (1); 1973, c. 173, s. 1;  
1979, c. 114, s. 1 (1).

(2) Where an employee has had for the entire period of six years immediately preceding his or her death a common-law wife or husband or where an employee has had during the entire period of two years immediately preceding his or her death a common-law wife or husband by whom he or she has had one or more children and leaves no dependent widow or widower, the compensation to which a dependent widow or widower would have been entitled under this Part shall be paid to the dependent common-law wife or husband until such time as he or she marries. 1973, c. 173, s. 5 (2), *part.*

(3) A dependent common-law wife or husband receiving compensation under this section may not be paid compensation for acting or claiming to act as a person described in subsection (5). 1975, c. 47, s. 3 (2).

(4) Where in the opinion of the Board the furnishing of further or better education to a child appears advisable, the Board in its discretion may on application extend the period to which compensation shall be paid in respect of the child for such additional period as is spent by the child in the furthering or bettering of its education. R.S.O. 1970, c. 505, s. 36 (4).

(5) Where a child is entitled to compensation under this section and is being maintained and taken care of by a suitable person who is acting *in loco parentis* in a manner that the Board considers satisfactory, such person while so doing is entitled to receive the same monthly payments of compensation for himself or herself and the child as if he or

she were a widower or widow of the deceased and in such case the child's part of such payments shall be in lieu of the monthly payments that he would otherwise be entitled to receive. 1973, c. 173, s. 5 (3), *part*.

Payment of  
lump sum

(6) In addition to any other compensation provided for, the widow or widower, or where the employee leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,000. 1979, c. 114, s. 2 (1).

Duration of  
payments  
under  
cl. (1) (f)

(7) In the case provided for by clause (1) (f), the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the employee lived he would have continued to contribute to the support of the dependants and, in any case under that clause, compensation may be made wholly or partly in a lump sum or by such form of payment as the Board in the circumstances considers most suitable. R.S.O. 1970, c. 505, s. 36 (8); 1973, c. 173, s. 1.

Dependants  
to whom  
employee  
stood  
*in loco*  
*parentis*

(8) A dependant to whom the employee stood *in loco parentis* or a dependant who stood *in loco parentis* to the employee is entitled, as the Board may determine, to share in or receive compensation under clause (1) (d), (e) or (f). R.S.O. 1970, c. 505, s. 36 (9); 1973, c. 173, s. 1.

Compensa-  
tion to  
invalid  
child

(9) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies.

Compensa-  
tion to  
dependants

(10) Where there are both total and partial dependants, the compensation may be allotted partly to the total and partly to the partial dependants.

Board may  
apply pay-  
ment for  
benefit of  
children

(11) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board considers most advantageous for the child. R.S.O. 1970, c. 505, s. 36 (10-12).

Remarriage  
of widow  
or widower

**37.**—(1) If a dependent widow or widower remarries or a dependent common-law wife or husband remarries, the monthly payments shall cease, but such widow or widower or dependent common-law wife or husband is entitled in lieu of them to a lump sum equal to the monthly payments for two years, and the lump sum is payable within one month after the day of the remarriage.

(2) Subsection (1) does not apply to payments to a widow or widower in respect of a child. 1973, c. 173, s. 6. Exception

**38.** Subject to subsections 36 (4) and (9), a monthly payment in respect of a child shall cease when the child attains the age of sixteen years or dies. R.S.O. 1970, c. 505, s. 38. When payments to child to cease

**39.** Where temporary total disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the employee's average weekly earnings, and is payable so long as the disability lasts. R.S.O. 1970, c. 505, s. 39; 1973, c. 173, s. 1. Temporary total disability

**40.** Where an employee, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average weekly earnings at the date of the accident or the average weekly earnings at the date of recurrence of the disability, calculated in the manner set out in section 39, whichever is the greater. R.S.O. 1970, c. 505, s. 40; 1973, c. 173, s. 1. Temporary disability subsequent to permanent disability

**41.—(1)** Where temporary partial disability results from the injury, the compensation shall be, Temporary partial disability

- (a) where the employee returns to employment, a weekly payment of 75 per cent of the difference between the average weekly earnings of the employee before the accident and an average amount that he is able to earn in some suitable employment or business after the accident; or
- (b) where the employee does not return to work, a weekly payment in the same amount as would be payable if he were temporarily totally disabled, unless he,
  - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting him back to work and in lessening or removing any handicap resulting from his injuries, or
  - (ii) fails to accept or is not available for employment which is available and which in the



opinion of the Board is suitable for his capabilities.

*Idem*

(2) Where subclause (1) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the accident as determined by the Board, and subsection 43 (4) applies. 1974, c. 70, s. 2.

Adjustment  
of rate of  
compensation  
for temporary  
disability  
benefits

**42.**—(1) Where the employee is not working and is in receipt of temporary disability benefits and has continuously received temporary disability benefits for the immediately preceding twelve months, the Board shall adjust the rate of compensation being paid by adding thereto an additional 10 per cent of the compensation rate being paid but the compensation rate so adjusted shall not exceed the maximum established by sections 39 and 45.

*Application*

(2) Subsection (1) applies to payments accruing on and after the 1st day of July, 1979, but nothing therein entitles any person to claim additional compensation for any period prior to the day next following the end of the twelve-month period referred to in subsection (1) and nothing therein entitles any person to more than one adjustment to his rate of compensation under subsection (1). 1979, c. 114, s. 3.

Permanent  
disability

**43.**—(1) Where permanent disability results from the injury, the impairment of earning capacity of the employee shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed. 1975, c. 47, s. 6 (1), *part*.

Payable  
where  
award for  
temporary  
disability

(2) Compensation for permanent disability is payable whether or not an award is made for temporary disability.

Schedule of  
percentages  
of impair-  
ment of  
earning  
capacity

(3) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases. R.S.O. 1970, c. 505, s. 42 (2, 3).

Payment of  
lump sum

(4) Where the impairment of the earning capacity of the employee does not exceed 10 per cent of his earning capacity, instead of such weekly or other periodical payment, the Board shall, unless in the opinion of the Board it would not be to the advantage of the employee to do so, direct



that such lump sum as may be considered to be the equivalent of it shall be paid to the employee. R.S.O. 1970, c. 505, s. 42 (4); 1973, c. 173, s. 1.

(5) Notwithstanding subsection (1), where the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix, provided that the total sum of such supplement and award shall not exceed in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed, and provided that he co-operates in and is available for a medical or vocational rehabilitation program which would in the opinion of the Board aid in getting him back to work, or accepts or is available for employment which is available and which in the opinion of the Board is suitable for his capabilities. 1975, c. 47, s. 6 (1), *part*.

Periodical  
payments

(6) Notwithstanding subsection (1), where the employee is seriously and permanently disfigured about the face or head, the Board may allow a lump sum in compensation therefor. R.S.O. 1970, c. 505, s. 42 (6); 1973, c. 173, s. 1.

Compensa-  
tion for  
disfigurement

(7) A dependant of an employee who was, at the time of his or her death, in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for his or her death, would have been in receipt of an award for permanent disability at the rate of 100 per cent is entitled to compensation as if the death of the employee had resulted from the compensable disability for which he or she received or would have received the permanent disability award. 1974, c. 70, s. 3, *part*.

Entitlement  
on death

**44.** Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured employee is entitled shall not be less than,

Minimum  
amount of  
compensation

(a) for temporary total disability,

- (i) \$117 a week where his average earnings were not less than \$117 a week for the period from the 1st day of July, 1978 to and including the 30th day of June, 1979,
- (ii) the amount of his earnings where his average earnings were less than \$117 a week for the period referred to in subclause (i),

- (iii) \$129 a week where his average earnings were not less than \$129 a week, from the 1st day of July, 1979, and
  - (iv) the amount of his earnings where his average earnings are less than \$129 a week from the 1st day of July, 1979,
- and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and
- (b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,
    - (i) for permanent total disability,
      - 1. \$519 a month for the period from the 1st day of July, 1978, to and including the 30th day of June, 1979, and
      - 2. \$571 a month from the 1st day of July, 1979, and
    - (ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or
  - (c) alternatively to subclause (b) (i), for permanent total disability the benefits that would have been payable from time to time under clauses 36 (1) (c), (d) and (e) and under section 38, as if he had died from the injury. 1979, c. 114, s. 5 (1).

How average  
earnings to  
be computed

**45.**—(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the employee was remunerated but not so as in any case to exceed the rate of \$18,500 per annum. R.S.O. 1970, c. 505, s. 44 (1); 1973, c. 173, s. 1; 1979, c. 114, s. 6 (1).

In case of  
shortness of  
service or  
its casual  
nature

(2) Where, owing to the shortness of the time during which the employee was in the employment of his employer or the casual nature of his employment or the terms of his employment, it is impracticable to compute the rate of remuneration as of the date of the accident, regard may be had to the average weekly or monthly amount that during the twelve months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment and in the same locality. R.S.O. 1970, c. 505, s. 44 (2); 1973, c. 173, s. 1.

(3) Where the employee has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them, his average earnings shall be computed on the basis of what he probably would have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident. R.S.O. 1970, c. 505, s. 44 (3); 1973, c. 173, s. 1.

Where two or more employers

(4) Employment by the same employer means employment by the same employer in the grade in which the employee was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause. R.S.O. 1970, c. 505, s. 44 (4); 1973, c. 173, s. 1.

Meaning of employment by same employer

(5) Where the employer was accustomed to pay the employee a sum to cover any special expenses entailed on him by the nature of his employment, that sum shall not be reckoned as part of his earnings. R.S.O. 1970, c. 505, s. 44 (5); 1973, c. 173, s. 1.

Special expenses not to be included

(6) Where in any case it seems more equitable, the Board may award compensation having regard to the earnings of the employee at the time of the accident. R.S.O. 1970, c. 505, s. 44 (6); 1973, c. 173, s. 1.

Board to award compensation in certain cases

(7) Where an employee is an apprentice or in the course of learning a trade, occupation, profession or calling and his remuneration is of a nominal nature, the Board may for the purposes of this Act determine his average earnings at an amount that it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the employee is liable to pay assessment to the Board on the earnings so determined. R.S.O. 1970, c. 505, s. 44 (7); 1973, c. 173, s. 1.

Average earnings of apprentice

**46.—**(1) In fixing the amount of compensation to be paid to an employee or his dependants regard shall be had to any payment, allowance or benefit paid to them by the employee's employer in respect of the employee's accident, including any gratuity or other allowance provided wholly at the expense of the employer. R.S.O. 1970, c. 505, s. 45 (1); 1973, c. 173, s. 1.

Matters to be considered in fixing payments

(2) Where the compensation is payable out of the accident fund, any sum deducted from the compensation under subsection (1) may be paid to the employer out of the accident fund. R.S.O. 1970, c. 505, s. 45 (2).

Payment to employer out of accident fund

Provision for  
fortnightly  
or monthly  
payments

**47.** Where it is considered advisable, the Board may provide that the payments of compensation shall be fortnightly or monthly instead of weekly or, where the employee or dependant is not a resident of Ontario or ceases to reside therein, may fix the periods of payment otherwise or commute the compensation as the Board considers proper. R.S.O. 1970, c. 505, s. 46; 1973, c. 173, s. 1.

Commuting  
compensa-  
tion for  
lump sum

**48.** The Board, for the purpose of enabling the employee to obtain an artificial member, or in any other case where it considers it proper, may, at any time or times, make or direct partial commutation or lump sum payment of his compensation, or otherwise alter the form of payment, as in the circumstances seems most for his advantage. R.S.O. 1970, c. 505, s. 47; 1973, c. 173, s. 1.

Discon-  
tinuation,  
suspension,  
etc., of com-  
pensation

**49.** Where it is found that the widow or common-law wife to whom compensation has been awarded is a common prostitute or is openly living with any man in the relation of man and wife without being married to him, the Board may discontinue or suspend compensation to such widow or common-law wife or divert such compensation in whole or in part to or for the benefit of any other dependant or dependants of the deceased employee. R.S.O. 1970, c. 505, s. 48; 1973, c. 173, s. 1.

Diverting  
compensa-  
tion to  
benefit of  
family

**50.** Where an employee is entitled to compensation and it is made to appear to the Board,

- (a) that the employee is no longer residing in Ontario but that his wife or child or children under sixteen years of age are still residing therein without adequate means of support and are, or are apt to become, a charge upon the municipality where they reside, or upon private charity; or
- (b) that the employee although still residing in Ontario is not supporting his wife and children as aforesaid and an order has been made against the employee by a court of competent jurisdiction for the support or maintenance of his wife or family, or for alimony,

the Board may divert such compensation in whole or in part from the employee for the benefit of his wife or children. R.S.O. 1970, c. 505, s. 49; 1973, c. 173, s. 1.

Payments  
in case of  
minor, etc.

**51.** If an employee or a dependant is under the age of eighteen years or is of unsound mind or in the opinion of the Board is incapable of managing his own affairs, any benefits to which he is entitled may be paid on his behalf to his parent, spouse or committee or to the Public Trustee or



may be paid to such other person or applied in such manner as the Board considers in the best interest of such employee or dependant, and when paid to the Public Trustee, it is the duty of the Public Trustee to receive and administer any such money for the benefit of the employee or dependant. R.S.O. 1970, c. 505, s. 50; 1971, c. 98, s. 4; 1973, c. 173, s. 1.

#### MEDICAL AID

**52.—**(1) Every employee who is entitled to compensation under this Part or who would have been so entitled had he been disabled beyond the day of the accident is entitled, Medical aid, etc., during disability

- (a) to such medical aid as may be necessary as a result of the injury;
- (b) to make the initial choice of doctor or other qualified practitioner for the purposes of this section;
- (c) where, in the opinion of the Board, he is rendered helpless through permanent total disability, to such other treatment, services or attendance as may be necessary as a result of the injury. R.S.O. 1970, c. 505, s. 51 (1); 1973, c. 173, s. 1.

(2) In this Act, "medical aid" means medical, surgical, Interpretation optometrical and dental aid, the aid of drugless practitioners under the *Drugless Practitioners Act*, the aid of chiropodists under the *Chiropody Act*, hospital and skilled nursing services, such artificial members and such appliances or apparatus as may be necessary as a result of the injury and the replacement or repair thereof when deemed necessary by the Board. R.S.O. 1970, c. 505, s. 51 (2). R.S.O. 1980, cc. 127, 72

(3) The Board may pay and, where the employer is individually liable, the Board may order the employer to pay, Payment for repair of artificial member or apparatus, etc.

- (a) for the replacement or repair of an artificial member or apparatus of an employee that is damaged as a result of an accident in the employment; and
- (b) on application, an allowance not exceeding \$240 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$120 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,



and where the employee is unable to work because of the damage referred to in clause (a), he is entitled to compensation as though the inability to work had been caused by a personal injury within the meaning of subsection 3 (1). R.S.O. 1970, c. 505, s. 51 (3); 1973, c. 173, s. 1; 1979, c. 114, s. 7 (1).

Payment for  
medical aid

(4) Medical aid shall be furnished or arranged for by the Board or as it may direct or approve and,

(a) in the industries in Schedule 1, shall be paid out of the accident fund and the necessary amount shall be included in the assessments levied upon the employers; and

(b) in the industries in Schedule 2, the amount shall be paid by the employer of the injured employee to the Board for payment. R.S.O. 1970, c. 505, s. 51 (4); 1973, c. 173, s. 1.

Accidents  
on or after  
Jan. 1st,  
1915

(5) An employee is entitled to such medical aid as may be necessary on or after the 1st day of January, 1947, for an accident happening on or after the 1st day of January, 1915. R.S.O. 1970, c. 505, s. 51 (5); 1973, c. 173, s. 1.

Questions  
to be  
determined  
by Board

(6) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished and as to payment for medical aid shall be determined by the Board. R.S.O. 1970, c. 505, s. 51 (6).

Amount of  
charges for  
medical aid

(7) The fees or charges for medical aid shall not be more than would be properly and reasonably charged to the employee if he was paying them himself, and the amount thereof shall be determined by the Board, and no action for any amount larger than that determined by the Board under this subsection lies against the Board and no action in respect of such fees and charges lies against the injured employee, his employer or any other person. R.S.O. 1970, c. 505, s. 51 (7); 1973, c. 173, s. 1.

Rendering of  
accounts for  
medical aid

(8) Where accounts for payment of medical aid are not received by the Board within such time as the Board may prescribe, the Board may impose such penalty by way of a percentage reduction in the amount of the account as it may prescribe. R.S.O. 1970, c. 505, s. 51 (8).

(9) It is not lawful for any employer, directly or indirectly, to collect or receive or retain from any employee any contribution toward the expense of medical aid, and every person contravening this provision is guilty of an offence and for every such contravention is liable on conviction to a fine of not more than \$50 and is also liable, upon the order of the Board, to reimburse the employee treble the amount of any sum so collected, received or retained. R.S.O. 1970, c. 505, s. 51 (9); 1973, c. 173, s. 1.

Contributions from employees forbidden

(10) Nothing in this Act affects any obligation upon the employer under the *Public Health Act* or any regulation made thereunder, but notwithstanding anything therein contained the employer shall not be entitled, directly or indirectly, to collect, receive or retain from any employee any contribution toward the expense of medical aid. R.S.O. 1970, c. 505, s. 51 (10); 1973, c. 173, s. 1.

Duty of employer under R.S.O. 1980, c. 409, not affected

(11) Employers in industries in which it is considered proper may be required by the Board to maintain as may be directed by the Board such first-aid appliances and service as the Board may direct, and the Board may make such order respecting the expense thereof as may be considered just. R.S.O. 1970, c. 505, s. 51 (11).

First-aid appliances may be directed by Board

(12) Every employer shall at his own expense furnish to any employee injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital or a physician, located within the area or within a reasonable distance of the place of injury, or to the employee's home, and any employer failing so to do is liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the employee or by anyone for him, or as may be provided by the Board. R.S.O. 1970, c. 505, s. 51 (12); 1973, c. 173, s. 1.

Duty of employer to furnish transportation

(13) Where, in conjunction with or apart from the medical aid to which employees are entitled free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from employees is or would be one prohibited by this Act shall be determined by the Board. R.S.O. 1970, c. 505, s. 51 (13); 1973, c. 173, s. 1.

Further medical service

#### MEDICAL REPORTS

**53.** Every physician, surgeon, hospital official or other person attending, consulted respecting, or having the care of,

Reports of medical men and hospital officials

any employee shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such employee. R.S.O. 1970, c. 505, s. 52; 1973, c. 173, s. 1.

#### REHABILITATION

Aid to  
injured  
employees

**54.** To aid in getting injured employees back to work and to assist in lessening or removing any handicap resulting from their injuries, the Board may take such measures and make such expenditures as it may deem necessary or expedient, and the expense thereof shall be borne, in Schedule 1 cases, out of the accident fund and, in Schedule 2 cases, by the employer individually, and may be collected in the same manner as compensation or expenses of administration. R.S.O. 1970, c. 505, s. 53; 1973, c. 173, s. 1.

#### WORKMEN'S COMPENSATION BOARD

Board  
continued

**55.**—(1) The body corporate incorporated under the name "Workmen's Compensation Board" is continued.

R.S.O. 1980,  
c. 95 not to  
apply

(2) The *Corporations Act* does not apply to the Board. 1973, c. 173, s. 8, *part*.

Appointment  
of commis-  
sioners

**56.** The Lieutenant Governor in Council may, from time to time, appoint such persons as he may determine to be commissioners of the Board. 1973, c. 173, s. 8, *part*.

Designation  
of chairman,  
vice-chairmen,  
respectively

**57.** The Lieutenant Governor in Council shall designate one of the commissioners to be chairman, one to be vice-chairman of administration, one to be vice-chairman of appeals, and not less than two and not more than four to be commissioners of appeals respectively, and such persons shall constitute the Board. 1973, c. 173, s. 8, *part*.

Interpre-  
tation

**58.** In this Part, the term "commissioner" means the chairman, the vice-chairman of administration, the vice-chairman of appeals, the commissioners of appeals, and such commissioners as the Lieutenant Governor in Council has appointed, and "commissioners" has a corresponding meaning. 1973, c. 173, s. 8, *part*.

Remunera-  
tion, etc., of  
commis-  
sioners

**59.** The remuneration, benefits and expenses of the commissioners shall be determined from time to time by the Lieutenant Governor in Council and such remuneration,

benefits and expenses shall be part of the administrative expenses of the Board. 1973, c. 173, s. 8, *part*.

**60.** The Lieutenant Governor in Council may fill any vacancy that occurs among the commissioners. 1973, c. 173, s. 8, *part*. Filling of vacancy

**61.** The commissioners shall hold office for a term of not more than five years but any commissioner whose term is expiring or has expired is eligible for reappointment. 1973, c. 173, s. 8, *part*. Tenure of office

**62.** A commissioner may be removed from office before the expiration of his term for cause. 1973, c. 173, s. 8, *part*. Removal of commissioner for cause

**63.—**(1) The chairman is the full-time chief executive officer of the Board. Chief executive officer

(2) The vice-chairman of administration is the full-time chief administrative officer of the Board and shall perform his duties under the general supervision of the chairman. Chief administrative officer

(3) The vice-chairman of appeals is the full-time chief appeals officer of the Board and shall perform his duties under the general supervision of the chairman. Chief appeals officer

(4) The other commissioners shall assist the vice-chairman of appeals in the performance of his duties. 1973, c. 173, s. 8, *part*. Idem

**64.—**(1) In the absence of the chairman from the Province, his inability to act, or where the office of chairman is vacant, his duties shall be performed by the vice-chairman designated by the chairman, or where the chairman has failed to so designate, by a vice-chairman designated by the Minister of Labour. Where vice-chairman of administration may act

(2) Wherever it appears that a vice-chairman acted for and instead of the chairman, it shall be conclusively presumed that he has so acted in the absence, disability or vacancy in the office of the chairman. 1973, c. 173, s. 8, *part*. Presumption where vice-chairman acts

**65.—**(1) A commissioner shall not directly or indirectly, Disqualification of commissioner in certain cases

(a) have, purchase, take or become interested in any industry to which this Part applies or any bond,



debenture or other security of the person owning or carrying it on;

- (b) be the holder of shares, bonds, debentures or other securities of any company that carries on the business of employers' liability or accident insurance;
- (c) have any interest in any device, machine, appliance, patented process or article that may be required or used for the prevention of accidents.

Idem

(2) If any such industry, or interest therein, or any such share, bond, debenture, security or thing comes to or becomes vested in a commissioner by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he ceases to hold office. 1973, c. 173, s. 8, *part*.

Where commissioner resigns or term expires

**66.**—(1) Where a commissioner resigns or his term expires, he may carry out and complete any duties or responsibilities that he would have had if he had not resigned or his term had not expired in respect of any application, proceeding or matter in which he participated as a commissioner.

Powers of remaining commissioners where death occurs, etc.

(2) Where a person is no longer a commissioner by reason of death, disqualification or removal from office for cause, the remaining commissioners that heard any application, proceeding or matter in which the person participated may carry out and complete the application, proceeding or matter as if the person were still a commissioner and, where there is a difference of opinion, the action or decision of the chairman or the vice-chairman of appeals sitting is the action or decision of the Board and, where the chairman or vice-chairman of appeals does not sit, the action or decision of the commissioner sitting and having the longest service as a commissioner of the Board is the action or decision of the Board. 1973, c. 173, s. 8, *part*.

Offices of Board

**67.**—(1) The main offices of the Board shall be situate in The Municipality of Metropolitan Toronto.

Sittings

(2) Notwithstanding subsection (1), the Board, a panel of the Board or a commissioner may meet or hold sittings in any place in Ontario as is considered convenient. 1973, c. 173, s. 8, *part*.

Board may act on report of officers

**68.**—(1) The Board may act upon the report of any of its officers.



(2) Any inquiry that the Board considers necessary to make may be made by any commissioner or officer of the Board or by some other person appointed by the Board to make the inquiry, and the Board may act upon his report as to the result of the inquiry. 1973, c. 173, s. 8, *part*.

Powers of  
Board

**69.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make such regulations as may be considered expedient for carrying out the provisions of this Part.

Power of  
Board  
to make  
regulations

(2) Every person who contravenes any such regulation or any rule of an association formed as provided by section 123 that has been approved and ratified as provided by that section is guilty of an offence and for every contravention is on conviction liable to a fine of not more than \$50, but no prosecution for any such contravention shall be taken without leave of the Board. 1973, c. 173, s. 8, *part*.

Offence

**70.** Subject to the approval of the Lieutenant Governor in Council, the Board may purchase or otherwise acquire such real property as it may consider necessary for its purposes, and may, with the like approval, sell or otherwise dispose of any such property. 1973, c. 173, s. 8, *part*.

Power to  
acquire real  
property

**71.**—(1) Meetings of the Board shall be held at the call of the chairman but in no case shall more than two months elapse between meetings of the Board.

Meetings of  
Board

(2) A majority of the commissioners of the Board for the time being constitutes a quorum for the transaction of business at meetings of the Board.

Quorum

(3) The Board has power to,

Powers of  
Board

- (a) establish the assessment policies of the Board;
- (b) review this Act and the regulations and recommend amendments or revisions thereof;
- (c) consider and approve annual operating and capital budgets;
- (d) review and approve investment policies of the Board;
- (e) review and approve major changes in programs of the Board;

- (f) enact by-laws and pass resolutions for the adoption of a seal and the conduct of its business and affairs;
- (g) establish, maintain and regulate advisory councils or committees, their functions and composition; and
- (h) establish, with the approval of the Lieutenant Governor in Council, a Joint Consultative Committee representative of labour, management and the public. 1973, c. 173, s. 8, *part*.

Powers of  
chairman

R.S.O. 1980,  
c. 108

**72.**—(1) In accordance with personnel policies approved from time to time by the Board, the chairman, subject to the approval of the Lieutenant Governor in Council and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and salary ranges for consultants, actuaries, accountants, experts, officers and employees of the Board, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so approved.

Remunera-  
tion for  
services  
performed

(2) When the Board, by virtue of any power vested in it, appoints or directs any person other than a member of the staff of the Board to perform any services, such person shall be paid such sum for services and expenses as the chairman may determine. 1973, c. 173, s. 8, *part*.

Certified  
copies of  
records, etc.,  
as evidence

**73.** Every copy of or extract from an entry in any book or record of the Board or of or from any document filed with the Board, certified by the secretary of the Board or by such other officer of the Board as may be appointed for that purpose by the chairman to be a true copy or extract under the seal of the Board shall be received in any court as evidence of the matter so certified without proof of the secretary's or other officer's appointment, authority or signature. 1973, c. 173, s. 8, *part*.

Superannua-  
tion Fund

**74.**—(1) The fund known as the Workmen's Compensation Board Superannuation Fund, for the payment of superannuation allowances or allowances upon the death or disability of an employee or commissioner of the Board, is continued.

Regulations

(2) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for contributions to the superannuation fund by the commissioners and employees of the Board;
- (b) providing for the terms and conditions upon which any superannuation or other allowance shall be payable out of the superannuation fund and the persons to whom the superannuation or other allowance may be paid;
- (c) providing for the terms and conditions upon which funds will be received and transferred under subsections (6), (7) and (8);
- (d) providing for the terms and conditions under which agreements may be entered into under subsection (8).

(3) The employees of designated associations for accident prevention formed under subsection 123 (1) and the employees of designated corporations for accident prevention, the members of which are employees within the meaning of section 123, shall for the purposes of this section be deemed to be employees of the Board, and every employee in the service of any such association or corporation on the 10th day of April, 1952, shall, for the purposes of this section, be deemed to have entered the service of the Board on the date he last entered the service of his association or corporation. Employees of accident prevention associations

(4) The Board may designate associations and corporations Idem for the purposes of subsection (3).

(5) The cost of maintaining and administering the superannuation fund shall be deemed part of the cost of the administration of this Act and is chargeable to the accident fund. Cost of administering fund

(6) Where a commissioner or employee of the Board becomes a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature of any province or of the Parliament of Canada, a sum of money equal to his contributions and credits in the superannuation fund or such portion thereof as the Board, subject to the approval of the Lieutenant Governor in Council, determines, shall be paid Transfer from superannuation fund to like fund

out of the superannuation fund into any like fund maintained to provide superannuation benefits for the members of such public, civil or civic service or staff, as the case may be.

Transfer  
to super-  
annuation  
fund

(7) Where a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature of any province or of the Parliament of Canada becomes a contributor to the superannuation fund and a sum of money is paid into the superannuation fund in respect of the period during which he made contributions as a public, civil or civic servant, or an employee of any board, commission or public institution, the Board, subject to the approval of the Lieutenant Governor in Council, may allow him such credit in the superannuation fund in respect of the sum and the period of service represented thereby as is determined.

Agreements  
authorized

(8) Notwithstanding subsection (1) and the regulations made under subsection (2), the Board, subject to the approval of the Lieutenant Governor in Council, may enter into an agreement with any government, municipality, board, commission or public institution mentioned in subsection (6) or (7) to provide reciprocal arrangements for the transfer of contributions and credits and where such an agreement exists such transfer shall be in accordance with the agreement. 1973, c. 173, s. 8, *part.*

#### APPLICATIONS, APPEALS AND PROCEEDINGS

General  
jurisdiction  
of Board

**75.**—(1) The Board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court.

Specific  
jurisdiction  
of Board

(2) Without limiting the generality of subsection (1), such exclusive jurisdiction includes the power of determining,

- (a) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and, if so, which of them;
- (b) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and, if so, which of them;
- (c) whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of this Part;
- (d) the existence of, and degree of, disability by reason of any injury;
- (e) the permanence of disability by reason of any injury;
- (f) the amount of average earnings;
- (g) the degree of diminution of earning capacity by reason of any injury;
- (h) the existence of the relationship of "member of the family";
- (i) the existence of dependency;
- (j) the question whether personal injury or death has been caused by accident;
- (k) the question whether an accident arose out of and in the course of an employment within the scope of this Act. 1973, c. 173, s. 8, *part*.

**76.** The Board may, at any time if it considers it <sup>Power to reconsider</sup> advisable to do so, reconsider any decision, order, declaration or ruling made by it and vary, amend or revoke such decision, order, declaration or ruling. 1973, c. 173, s. 8, *part*.

**77.**—(1) For the purposes of any application, appeal <sup>Quorum of commis-</sup> or proceeding before the Board, any three of the com- <sup>sioners, etc.</sup> missioners, save and except the vice-chairman of administration, constitute a quorum of the Board and are sufficient to exercise all the jurisdiction and powers of the Board



except those contained in subsection 71 (3) in dealing with any application, appeal or proceeding.

Panels

(2) The Board may sit in two or more panels so long as a quorum is present in each panel.

Assignment  
of commis-  
sioners

(3) The chairman or the vice-chairman of appeals may from time to time assign the commissioners to the panels and may change any assignment at any time.

Action or  
decision

(4) The action or decision of the majority of the members of a panel is the action or decision of the Board, and where there is no majority the action or decision of the chairman or the vice-chairman of appeals sitting is the action or decision of the Board, and where the chairman or vice-chairman of appeals does not sit, the action or decision of the commissioner sitting and having the longest service as commissioner is the action or decision of the Board.

Powers re  
conduct of  
an inquiry

(5) The chairman or vice-chairman of appeals may appoint a commissioner or any other person to make and conduct an inquiry into any application, appeal or proceeding before the Board or a matter or thing arising therein and to report to the Board on a summary of the evidence his findings of fact and his opinion thereon and the Board or panel may act upon the summary of evidence, the findings of fact and his opinion or may substitute its own findings of fact or opinion therefor. 1973, c. 173, s. 8, *part*.

Delegation  
of powers

**78.**—(1) Notwithstanding section 77,

(a) the chairman or the vice-chairman of appeals; or

(b) a commissioner except the vice-chairman of administration whenever authorized so to do by either the chairman or the vice-chairman of appeals,

may hear and determine any application, appeal or proceeding before the Board and for such purpose may exercise all the jurisdiction and powers of the Board in dealing with any such application, appeal or proceeding and the action or decision of the chairman, the vice-chairman of appeals, or the commissioner, as the case may be, is the action or decision of the Board.

Referral to  
Board for  
action or  
decision

(2) Where the chairman, vice-chairman, or commissioner acting under subsection (1) considers it advisable so to do,

he may refer or remit the application, appeal or proceeding to the Board for its action or decision.

(3) An appeal lies to the Board or a panel thereof under the provisions of section 77 from the dismissal or refusal of an application, appeal or proceeding by the chairman, vice-chairman or commissioner acting under subsection (1). 1973, c. 173, s. 8, *part*. Appeal

**79.** The Board shall determine its own practice and procedure in relation to applications, appeals and proceedings and may, subject to the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable. 1973, c. 173, s. 8, *part*. Practice and procedure of Board

**80.**—(1) Any decision of the Board shall be upon the real merits and justice of the case, and it is not bound to follow strict legal precedent but shall give full opportunity for a hearing. Principle of decision

(2) The proceedings and decisions of the Board shall not be subject to or affected in any way by the *Statutory Powers Procedure Act*, or by any rules made under it, and the provisions of this Act and the regulations made thereunder shall prevail notwithstanding anything contained in the *Statutory Powers Procedure Act*, or rules made under it. 1973, c. 173, s. 8, *part*. Non-application of R.S.O. 1980, c. 484

**81.** The Board has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce such documents or things as the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;
- (b) to accept such oral or written evidence as in its discretion it considers proper whether admissible in a court of law or not;
- (c) to allow to an employee, dependant of a deceased employee or his witnesses travelling and living expenses and other allowances and such expenses

Specific powers of Board re hearings, etc.

and allowances shall be paid out of the accident fund as part of the administrative expenses of the Board;

- (d) to require any person or corporation to post and to keep posted upon their premises in a conspicuous place or places, where they are most likely to come to the attention of all persons concerned, any notices that the Board considers necessary to bring to the attention of such persons in connection with any matter or proceeding under this Act;
- (e) to enter into any premises where work is being or has been done by an employee or in which the employer carries on business whether or not the premises are those of the employer and inspect and view any work, material, machinery, appliance or article therein and interrogate any person respecting any matter and post therein any notice;
- (f) to authorize any person to do anything that the Board may do and to report to the Board thereon. 1973, c. 173, s. 8, *part.*

Enforcement  
of orders of  
Board

**82.**—(1) An order of the Board for the payment of compensation or medical aid by an employer who is individually liable to pay the compensation or medical aid or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the secretary to be a true copy, may be filed with the clerk of any county or district court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court.

Fees

(2) For the duties performed by him in connection with the filing of an order or certificate of the Board pursuant to this section or section 116, such clerk is entitled to a fee of \$1, and, notwithstanding any other provision or rule, any proceeding provided for by either of such sections may be carried on by the Board by post without the necessity of personal attendance at any office. 1973, c. 173, s. 8, *part.*

Compel-  
liability in  
civil suit

**83.**—(1) No commissioner of the Board, or any other commissioner or officer or employee of the Board, or a person who is engaged by the Board to conduct an examination, test or inquiry or authorized to perform any

function, shall be required to give testimony in any civil suit or proceeding to which the Board is not a party respecting any information, material, statement or result of any examination, test or inquiry acquired, furnished, obtained, made or received in the performance of his duties under this Act.

(2) Neither the Board, a commissioner thereof or any other commissioner, officer or employee of the Board or a person who is engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function, shall be required to produce in a civil suit to which the Board is not a party a document, extract, report, material or statement acquired, furnished, obtained, made or received in the performance of his duties under this Act. <sup>Idem</sup>

(3) No action or other proceeding for damages lies against the Board, a commissioner thereof or any other commissioner, officer or employee of the Board or a person engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function for an act or omission done or omitted by it or him in good faith in the execution or intended execution of any power or duty under this Act or the regulations. <sup>Liability of Board, etc.</sup>

(4) Subsection (3) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Board, a commissioner thereof or any other commissioner, an officer or employee of the Board or a person engaged by the Board to conduct an examination, test or inquiry or authorized to perform any function to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection (3) had not been enacted. 1973, c. 173, s. 8, *part*. <sup>Liability of Crown R.S.O. 1980, c. 393</sup>

**84.** The accounts of the Board shall be audited by the Provincial Auditor or under his direction by an auditor appointed by the Lieutenant Governor in Council for that purpose and the salary and remuneration of the auditor so appointed shall be paid by the Board as part of its administrative expenses. 1973, c. 173, s. 8, *part*. <sup>Audit of accounts</sup>

**85.—**(1) The Board shall after the close of each year file with the Minister of Labour an annual report upon the affairs of the Board. <sup>Annual report</sup>



Tabling

(2) The Minister of Labour shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session and the report shall then be referred to a standing committee of the Assembly.

Report by Board

(3) The Board shall after the close of each year file with the Superintendent of Insurance, in such detail as he may require, a report on the accident fund and the Superintendent of Insurance shall report thereon to the Minister of Labour.

Examination by Superintendent of Insurance

(4) The Superintendent of Insurance shall, whenever required by the Lieutenant Governor in Council or the Board, examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant Governor in Council or the Board. 1973, c. 173, s. 8, *part*.

Provincial grant

**86.** To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding \$100,000 as the Lieutenant Governor in Council may direct. 1973, c. 173, s. 8, *part*.

## ACCIDENT FUND

How accident fund to be provided

**87.**—(1) An accident fund shall be provided by contributions to be made by the employers in the classes or groups of industries for the time being included in Schedule 1, and compensation payable in respect of accidents that happen in any industry included in any of such classes or groups shall be paid out of the accident fund.

Industries in Schedule 2 not to contribute

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1, none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under this Part. R.S.O. 1970, c. 505, s. 82.

Payment of compensation out of reserves or Consolidated Revenue Fund

**88.** If at any time there is not money available for payment of the compensation that has become due without resorting to the reserves, the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the com-



pensation or by including it in a subsequent annual assessment, but, if for any reason it is considered inexpedient to withdraw the amount required from the reserves, the Lieutenant Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. R.S.O. 1970, c. 505, s. 83.

**89.** It is the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it will be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened previously. R.S.O. 1970, c. 505, s. 84.

Sufficiency of  
accident  
fund to be  
maintained

**90.**—(1) Subject to section 112, it is not obligatory upon the Board to provide and maintain a reserve fund at all times equal to the capitalized value of the payments of compensation that will become due in future years unless the Board is of opinion that it is necessary to do so in order to comply with section 89.

Reserve  
funds

(2) It is not necessary for the reserve fund to be uniform as to all classes but, subject to sections 89 and 112, it is discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them. R.S.O. 1970, c. 505, s. 85.

Reserve  
fund need  
not be  
uniform as to  
all classes

**91.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may by regulation,

Regulations  
re Schedules  
1 and 2

- (a) rearrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of this Part;
- (b) establish other classes including any of the industries that are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;

- (c) add to any of the classes for the time being included in Schedule 1 any industry that is not included in any of such classes;
- (d) exclude any trade, employment, occupation, calling, avocation or service from any industry for the time being included under this Part or at any time brought under this Part. R.S.O. 1970, c. 505, s. 86 (1).

Apportionment of burden of assessment to hazard of business, etc.

(2) Where in the opinion of the Board the hazard to employees in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may subdivide the class into subclasses or groups and, if that is done, the Board may fix the percentages or proportions of the contributions to the accident fund that are to be payable by the employers in each subclass or group. R.S.O. 1970, c. 505, s. 86 (2); 1973, c. 173, s. 1.

Separate accounts to be kept for each class, subclass or group

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class, subclass or group, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible. R.S.O. 1970, c. 505, s. 86 (3).

Power to increase amount of assessment in certain cases

(4) Where in the opinion of the Board sufficient precautions have not been taken for the prevention of accidents to employees in the employment of an employer or where the working conditions are not safe for employees or where the employer has not complied with the regulations respecting first aid, the Board may add to the amount of any contribution to the accident fund for which the employer is liable such a percentage thereof as the Board considers just and may assess and levy the same upon the employer. R.S.O. 1970, c. 505, s. 86 (4); 1973, c. 173, s. 1.

Collection and application of additional percentage

(5) Any additional percentage levied and collected under subsection (4) shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or subclass to which the employer from whom it is collected belongs as the Board may determine.

Merit system

(6) Where, in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may

reduce the amount of any contribution to the accident fund for which such employer is liable.

(7) Where the work injury frequency and the accident cost of the employer are consistently higher than that of the average in the industry in which he is engaged, the Board, as provided by the regulations, may increase the assessment for that employer by such a percentage thereof as the Board considers just, and may assess and levy the same upon the employer, and may require the employer to establish one or more safety committees at plant level. Demerit system

(8) The Board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under subsection (4). R.S.O. 1970, c. 505, s. 86 (5-8). Relief

**92.** Where the Board finds that an employer has employed a minor in contravention of the law and a claim for injury to the minor is made, such unlawful employment does not affect or prejudice the right of the claimant, but the Board may exclude the industry from the class in which it is included and, if it is so excluded, the employer is individually liable to pay the compensation to which the minor or any dependant of the minor is entitled. R.S.O. 1970, c. 505, s. 87. Injury to minor

**93.—**(1) The Board may in the exercise of the powers conferred by section 91 withdraw or exclude from a class of industries in which not more than a stated number of employees are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1, but no withdrawal or exclusion under the authority of this subsection has the effect of excluding any industry from Schedule 2. R.S.O. 1970, c. 505, s. 88 (1); 1973, c. 173, s. 1. Withdrawing small industries from classes

(2) Where industries are withdrawn or excluded from a class under the authority of subsection (1), an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and, if he so elects, he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1. Employers in industries withdrawn under subs. (1) may elect to become members of class

Notice of  
election

(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him. R.S.O. 1970, c. 505, s. 88 (2, 3).

Election of  
employee

(4) An employee in any industry excluded under the authority of subsection (1) may notify the secretary of the Board that he desires such industry to be included in Schedule 1, and such notice upon receipt thereof by the Secretary has the same effect as a notice of election from the employer. R.S.O. 1970, c. 505, s. 88 (4); 1973, c. 173, s. 1.

Powers may  
be exercised  
as occasion  
requires

**94.** The powers conferred by sections 91 to 93 may be exercised from time to time and as often as in the opinion of the Board occasion may require. R.S.O. 1970, c. 505, s. 89.

Additions to  
Schedule 1

**95.** The Board may, upon the application of an employer, add to Schedule 1, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer. R.S.O. 1970, c. 505, s. 90.

Additions to  
Schedule 2

**96.** The Board may, upon the application of an employer, add to Schedule 2, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer not in Schedule 1. R.S.O. 1970, c. 505, s. 92.

#### STATEMENTS TO BE FURNISHED BY EMPLOYERS

Statements  
to be  
furnished by  
employers

**97.**—(1) Subject to the regulations, every employer shall yearly on or before such date as shall be prescribed by the Board, and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past or any part thereof specified by the Board and of the amount that he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both certified to be accurate by the employer or manager of the business or, where the employer is a corporation, by an officer of the corporation having a personal knowledge of the matters to which the statements relate.

Statement  
to be  
furnished  
by employer

(2) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or



commenced on or after the 1st day of January in the then current year, the employer shall forthwith notify the Board of the fact and prepare and transmit to the Board a statement of the amount that he estimates he will expend for wages for the remainder of the year and such other information as the Board may require, certified to be accurate in the manner prescribed by subsection (1).

(3) Every employer shall keep in such form and with such detail as may be required for the purposes of this Act a careful and accurate account of all wages paid to his employees and such account shall be kept within Ontario and shall be produced to the Board and its officers when so required.

Employer to  
keep account  
of wages  
paid

(4) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified and transmitted as provided by subsection (1).

Separate  
statements  
as to  
branches,  
etc.

(5) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time, the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the payroll of the employer and the employer is bound thereby, but, if it is afterwards ascertained that such amount is less than the actual amount of the payroll, the employer is liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his payroll.

Failure to  
furnish  
statements

(6) If an employer does not comply with subsection (1), subsection (2), subsection (3) or subsection (4), or if any statement made thereunder is not a true and accurate statement of any of the matters required to be set forth in it, the employer for every such non-compliance and for every such statement is guilty of an offence and on conviction is liable to a fine of not more than \$500, and default or delay in furnishing any such statement or insufficiency of estimate of expenditure for wages also renders the employer liable to pay an additional percentage of assessment or to pay interest, as fixed by the Board. R.S.O. 1970, c. 505, s. 93.

Conse-  
quences of  
default in  
furnishing  
statements

**98.**—(1) Every assessor of a township, town or village shall yearly on or before the last day for completing his assessment roll make a return to the Board upon forms provided by the Board for the purpose showing the names, addresses,

Municipal  
assessors to  
make return  
re employees



nature of business, and usual number of employees, of all employers of labour carrying on in the municipality any industry or business other than farming or mercantile business.

Payment of  
assessors

(2) The Board may make remuneration for such return out of the accident fund. R.S.O. 1970, c. 505, s. 94.

Examination  
of accounts  
and books of  
employer

**99.**—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right to examine the books and accounts of the employer and to make such other inquiry as the Board considers necessary for the purpose of ascertaining whether any statement furnished to the Board under section 97 is an accurate statement of the matters that are required to be stated therein or of ascertaining the amount of the payroll of any employer or of ascertaining whether any industry or person is under the operation of this Part and whether in Schedule 1 or Schedule 2, and for the purpose of any such examination and inquiry the Board and the person so appointed has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the examination or inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 505, s. 95 (1); 1971, c. 49, s. 18.

R.S.O. 1980,  
c. 411

Order to  
seize books

(2) The Board may, for the purpose of the examination mentioned in subsection (1), apply *ex parte* to a judge of the county or district court of the county or district in which the books and accounts are located for an order authorizing an officer of the Board, together with such members of the Ontario Provincial Police Force or other police officers as he calls on to assist him, to enter and search, if necessary by force, any building, receptacle or place for books and accounts of the employer and to seize and take away any such books and accounts for the purpose of the examination and retain them in his possession until such examination is completed.

Offence

(3) Every employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection (1) or refuses to permit it to be made is guilty of an offence and on conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 505, s. 95 (2, 3).

Assessment  
may be  
made to  
correspond  
with  
payrolls

**100.**—(1) If a statement is found to be inaccurate, the assessment shall be made on the true amount of the payroll as ascertained by such examination and inquiry, or, if an assessment has been made against the employer on the basis of his payroll being as shown by the statement, the employer

shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the payroll had been truly stated, and in addition a sum equal to such difference.

(2) The Board, if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the additional sum provided for by subsection (1) or any part of it. R.S.O. 1970, c. 505, s. 96. Relief from additional sum

**101.**—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the employees employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose that the Board considers necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund. R.S.O. 1970, c. 505, s. 97 (1); 1973, c. 173, s. 1. Board to have right to inspect premises of employer

(2) Every employer and every other person who obstructs or hinders the making of any inspection under subsection (1), or refuses to permit it to be made, is guilty of an offence and on conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 505, s. 97 (2). Offence

#### PRIVILEGED INFORMATION

**102.**—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or that has come to his knowledge in making or in connection with an inspection or inquiry under this Part. Information obtained not to be divulged

(2) Every person who contravenes any of the provisions of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 505, s. 98. Offence

Reports  
privileged

**103.** Every report made under section 53 and every other report made or submitted to the Board by a physician, surgeon, hospital, nurse, dentist, drugless practitioner, chiropodist or optometrist is for the use and purposes of the Board only, is deemed to be a privileged communication of the person making or submitting the same, and unless it is proved that it was made maliciously, is not admissible as evidence or subject to production in any court in an action or proceeding against such person. R.S.O. 1970, c. 505, s. 99.

#### ASSESSMENTS

Assessments,  
levying

**104.**—(1) The Board shall in every year assess and levy upon the employers in each of the classes such percentage of payroll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it deems sufficient to pay the compensation during the current year in respect of injuries to employees in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to maintain a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board considers necessary to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years in respect of accidents that have previously happened. R.S.O. 1970, c. 505, s. 100 (1); 1973, c. 173, s. 1.

Provisional  
levy

(2) Such assessments, if the Board sees fit, may be levied provisionally upon the estimate of payroll given by the employer or upon an estimate fixed by the Board and, after the actual payroll has been ascertained, may be adjusted to the correct amount, and the payment of assessments, if the Board sees fit, may be divided into instalments. R.S.O. 1970, c. 505, s. 100 (2).

Deduction  
from  
payroll of  
proportion  
of wages

**105.**—(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of an employee who has been paid more than the maximum rate of annual earnings established by subsection 45 (1), the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced. R.S.O. 1970, c. 505, s. 101 (1); 1973, c. 173, s. 1.

Assessments  
need not  
be uniform

(2) It is not necessary for the assessments upon the employers in a class, subclass or group to be uniform, but

they may vary for each individual industry or plant in relation to the hazard of such industry or plant, and the Board may levy a differential rate of assessment on each employer in the class, subclass or group accordingly.

(3) A system of merit rating may, if considered proper, <sup>Merit rating</sup> be adopted. R.S.O. 1970, c. 505, s. 101 (2, 3).

**106.**—(1) The Board shall determine and fix the per- <sup>Rate of</sup>centage, rate or sum for which each employer is assessed <sup>assessment</sup> under section 104 or 105, or the provisional amount thereof, <sup>to be fixed</sup> and each employer shall pay to the Board the amount or <sup>by the</sup>provisional amount of his assessment within one month or such <sup>Board</sup>other time as the Board may fix after notice of the assessment and of the amount has been given to him, or, where payment is to be made by instalments, he shall pay the first instalment within such time and the remaining instalment or instalments at the time or times specified in the notice.

(2) The notice may be sent by post to the employer and <sup>How notice</sup>shall be deemed to have been given to him on the day on <sup>may be</sup>which the notice was posted. <sup>served</sup>

(3) When it appears at any time that a statement or <sup>Revision of</sup>estimate of payroll upon which an assessment or provisional <sup>assessments</sup>amount of assessment is based is too low, the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as is sufficient to bring the payment of assessment up to the proper amount, and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. R.S.O. 1970, c. 505, s. 102.

**107.** If the amount realized from any assessment is <sup>Insufficient</sup>insufficient for the purpose for which the assessment was <sup>assessment</sup>made, the Board may make supplementary assessments to make up the deficiency and section 106 applies to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. R.S.O. 1970, c. 505, s. 103.

**108.**—(1) Where any deficiency in the amount realized <sup>All classes</sup>from any assessment in any class is caused by the failure <sup>may be</sup>of some of the employers in that class to pay their share of <sup>assessed for</sup>the assessment or by any disaster or other circumstance <sup>deficiency in</sup>that in the opinion of the Board would unfairly burden the <sup>any of them</sup>employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all



the classes and section 106 applies to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment.

Special fund

(2) The Board, where it considers proper, may add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance that, in the opinion of the Board, would unfairly burden the employers in any class. R.S.O. 1970, c. 505, s. 104.

Where  
deficiency  
made good

**109.** If and so far as any deficiency mentioned in sections 107 and 108 is afterwards made good wholly or partly by the defaulting employer, the amount that has been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment. R.S.O. 1970, c. 505, s. 105.

Employer  
not assessed

**110.**—(1) If for any reason an employer liable to assessment is not assessed in any year, he is nevertheless liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

Amount  
collected to  
be taken into  
account

(2) Any sum collected from an employer under subsection (1) shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or subclass to which such employer belonged. R.S.O. 1970, c. 505, s. 106.

Employer  
liable to  
pay unpaid  
sums

**111.** Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, a defaulting employer continues liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid. R.S.O. 1970, c. 505, s. 107.

Lieutenant  
Governor  
in Council  
may require  
supple-  
mentary  
assessments  
to be made

**112.** Whenever the Lieutenant Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in



future years with payments that are to be made in those years in respect of accidents that have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and, when such a requirement is made, the Board shall make such supplementary assessment forthwith and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments apply to it. R.S.O. 1970, c. 505, s. 108.

**113.** In order to maintain the accident fund as provided by section 89, the Board may from time to time and as often as may be considered necessary include in any sum to be assessed upon the employers and may collect from them such sums as are considered necessary for that purpose, and the sums so collected shall form a reserve fund and shall be invested in any of such securities as a trustee may invest in under the *Trustee Act*. R.S.O. 1970, c. 505, s. 109.

Formation  
of reserves

R.S.O. 1980,  
c. 512

**114.** If an assessment or a special assessment is not paid when it becomes payable, the defaulting employer is liable to pay and shall pay for his default such a percentage upon the amount unpaid as may be prescribed by the regulations or as may be determined by the Board. R.S.O. 1970, c. 505, s. 110.

Additional  
percentage  
for non-  
payment of  
assessment

**115.—(1)** Any employer who refuses or neglects to make or transmit any payroll, return or other statement required to be furnished by him under section 97, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation and medical aid payable in respect of any accident to an employee in his employ that happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced. R.S.O. 1970, c. 505, s. 111 (1); 1973, c. 173, s. 1.

Failure to  
make return  
or pay  
assessment

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. R.S.O. 1970, c. 505, s. 111 (2).

Relieving  
clause

**116.** Where default is made in the payment of any assessment or special assessment, or any part of it, the Board may issue its certificate stating that the assessment was

Collection  
of unpaid  
assessments

made, the amount remaining unpaid on account of it and the person by whom it was payable, and such certificate or a copy of it certified by the secretary to be a true copy may be filed with the clerk of any county or district court or, where the amount remaining unpaid does not exceed \$1,000, with the clerk of any small claims court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate. R.S.O. 1970, c. 505, s. 112.

Board may  
collect  
assessment  
through  
municipal  
collectors

**117.**—(1) If an assessment or a special assessment, or any part of it, remains unpaid for thirty days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by section 116, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment and the establishment in respect of which it is payable, and, upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate, he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount, when collected, shall be paid over by the collector to the Board.

Collector  
entitled to  
percentage

(2) The collector is entitled to add 5 per cent thereof to the amount to be collected and to retain such percentage for his services in making the collection. R.S.O. 1970, c. 505, s. 113.

Case of  
industry  
temporarily  
carried on

**118.**—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

Powers of  
Board

(2) The Board has the like powers and is entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments.

Offence

(3) Every employer who makes default in complying with subsection (1) is guilty of an offence and on conviction is liable to a

fine of not more than \$200 and an additional fine of not more than \$20 per day for every day on which the default continues.  
R.S.O. 1970, c. 505, s. 114.

**119.** In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under the *Mechanics' Lien Act*, it is the duty of the owner as defined by that Act to see that any sum that the employer is liable to contribute to the accident fund is paid and, if any such owner fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. R.S.O. 1970, c. 505, s. 115.

Liability of owner under R.S.O. 1980, c. 261, for contribution of employer to accident fund

**120.—(1)** There shall be included among the debts that, under the *Assignments and Preferences Act*, the *Trustee Act*, and the *Corporations Act*, are, in the distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability wherefore accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts have effect accordingly.

Distribution of assets R.S.O. 1980, cc. 33, 512, 95

(2) When the compensation is a periodical payment, the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted.

Periodical payments of compensation

(3) The amount set forth in a certificate of the Board filed pursuant to section 116 is a first lien upon all the property, real or personal, of the employer used in or in connection with the industry with respect to which the employer is assessed, subject only to municipal taxes, and the amount levied under execution upon any such judgment to the extent of the amount due upon such execution shall forthwith be paid to the Board.

(4) The lien mentioned in subsection (3) is effective only where notice of the lien has been filed by way of writ of *fiery facias* in the office of the sheriff of the county or district in which the property against which the lien applied is

Notice of lien

R.S.O. 1980,  
c. 230

situated and, where land affected is registered under the *Land Titles Act*, a copy of such writ has been transmitted by registered mail or delivered by the sheriff to the proper land registrar. R.S.O. 1970, c. 505, s. 116.

#### RETURNS OF ACCIDENTS

Employers  
to give notice  
of accidents

**121.**—(1) Every employer, within three days after he learns of the happening of an accident to an employee in his employment by which the employee is disabled from earning full wages or that necessitates medical aid, shall notify the Board in writing of,

- (a) the happening of the accident and the nature of it;
- (b) the time of its occurrence;
- (c) the name and address of the employee;
- (d) the place where the accident happened;
- (e) the name and address of the physician or surgeon, if any, by whom the employee was or is attended for the injury,

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require. R.S.O. 1970, c. 505, s. 117 (1); 1973, c. 173, s. 1.

Offence

(2) For every contravention of subsection (1), the employer is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 505, s. 117 (2).

Default  
in  
reporting  
accident  
or claim

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board the amount set out in the regulations and the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations for such purpose. 1975, c. 47, s. 14.

#### INDUSTRIAL DISEASES

Industrial  
diseases to  
be deemed  
accidents

**122.**—(1) Where an employee suffers from an industrial disease and is thereby disabled or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged, whether under one or more employments, the employee or his dependants are entitled to compensation as if the disease



was a personal injury by accident and the disablement was the happening of the accident, subject to the modifications hereinafter mentioned or contained in the regulations, unless at the time of entering into the employment he has wilfully and falsely represented himself in writing as not having previously suffered from the disease. 1973, c. 173, s. 9 (1), *part.*

(2) Where the compensation is payable by an employer individually, it is payable by the employer who last employed the employee in the employment to the nature of which the disease was due. R.S.O. 1970, c. 505, s. 118 (2); 1973, c. 173, s. 1. By whom compensation payable

(3) The employee or his dependants, if so required, shall furnish the employer mentioned in subsection (2) with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due as such employee or his dependants may possess, and, if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection (4), that employer upon proving that the disease was not contracted while the employee was in his employment is not liable to pay compensation. R.S.O. 1970, c. 505, s. 118 (3); 1973, c. 173, s. 1. Names of former employers to be furnished by claimants

(4) If that employer alleges that the disease was in fact contracted while the employee was in the employment of some other employer, he may bring such employer before the Board and, if the allegation is proved, that other employer is the employer by whom the compensation shall be paid. R.S.O. 1970, c. 505, s. 118 (4); 1973, c. 173, s. 1. Last employer may bring in former employers

(5) If the disease is of such a nature as to be contracted by a gradual process, any other employers who employed the employee in the employment to the nature of which the disease was due are liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just. R.S.O. 1970, c. 505, s. 118 (5); 1973, c. 173, s. 1. Where disease result of gradual process

(6) The amount of the compensation shall be fixed with reference to the average earnings of the employee as calculated under the provisions of section 45, but for the purposes of this section, where an employee is no longer engaged in the trade, occupation, profession or calling to which the disease is due, the Board may determine his average earnings at an amount that it considers fair and equitable having regard to the average earnings of a Fixing of compensation



fully qualified person engaged in the same trade, occupation, profession or calling to which the disease is due during the twelve months prior to the commencement of disability, but not in any case exceeding the rate provided by subsection 45 (1).

Notice

(7) The notice provided for by section 20 shall be given to the employer who last employed the employee in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the employee has voluntarily left the employment. 1973, c. 173, s. 9 (1), *part*.

Charging  
compensa-  
tion to  
particular  
classes

(8) Where the compensation is payable out of the accident fund, the Board shall make such investigation as it considers necessary to ascertain the class or classes against which the compensation should be charged and shall charge or apportion the compensation accordingly. R.S.O. 1970, c. 505, s. 118 (7).

Presump-  
tions as to  
disease being  
due to nature  
of employ-  
ment

(9) If the employee at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved, but, except where the Board is satisfied that the disease is not due to any other cause than his employment in Ontario, no compensation is payable under this section unless the employee has been a resident of Ontario for the three years next preceding his first disablement. R.S.O. 1970, c. 505, s. 118 (8); 1973, c. 173, s. 1.

Remuner-  
ation and  
expenses  
of medical  
officers  
R.S.O. 1980,  
c. 321

(10) The Board may pay the remuneration and expenses of such medical officers as may be required to carry out the provisions of the regulations under the *Occupational Health and Safety Act* for the examination of employees or applicants for employment in a mine or mining plant, out of the rates imposed under this Act for payment of silicosis claims. 1975, c. 47, s. 15, *revised*.

Condition  
upon which  
compensation  
granted

(11) Nothing in this Act entitles an employee or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis unless the employee has been actually exposed to silica dust in his employment in Ontario for periods amounting in all to

at least two years preceding his disablement. R.S.O. 1970, c. 505, s. 118 (10); 1973, c. 173, s. 1.

(12) Notwithstanding any other provision in this Act, the Board may enter into an agreement with the appropriate authority in any other province or territory of Canada to provide for the sharing of costs of silicosis claims, in proportion to exposure or estimated exposure to silica dust, for employees who have had exposure employment in Ontario and who may not qualify for benefits in any other province or territory of Canada because of residence or exposure requirements. 1973, c. 46, s. 6; 1973, c. 173, s. 1.

(13) Notwithstanding any other provision in this Act, the Board may enter into an agreement with the appropriate authority in any other province or territory of Canada to provide for the sharing of costs of industrial noise induced hearing loss claims in proportion to the actual or estimated amount of exposure in Ontario to industrial noise which contributed to the hearing loss. 1973, c. 173, s. 9 (3).

(14) Nothing in this section affects the right of an employee to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part. R.S.O. 1970, c. 505, s. 118 (12); 1973, c. 173, s. 1.

(15) The provisions of this section relating to silicosis apply with necessary modifications to pneumoconiosis and stone worker's or grinder's phthisis.

(16) The Board, subject to the approval of the Lieutenant Governor in Council, may declare any disease to be an industrial disease and may amend Schedule 3 accordingly. R.S.O. 1970, c. 505, s. 118 (13, 14).

#### FORMATION OF ASSOCIATIONS AND COMMITTEES

**123.**—(1) The employers in any of the classes for the time being included in Schedule 1 may, with the approval and under the control of the Board, form themselves into an association for the purpose of education in accident prevention.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve rules of operation and, when approved by the Board and by the Lieutenant Governor in Council, they are binding on all the employers in industries included in the class.

## Inspectors

(3) Where an association under the authority of its rules of operation appoints an inspector or an expert for the purpose of education in accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it that is at the credit of any one or more of the classes as the Board considers just.

## Expenses of associations

(4) The Board may, in any case that it considers proper, make a grant towards the expenses of any such association.

## Where charged

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class.

## Interpretation

(6) The word "class" in this section includes subclass or such part of a class or such number of classes or parts of classes in Schedule 1 as may be approved by the Board. R.S.O. 1970, c. 505, s. 119.

## Committee of employers

**124.**—(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates. R.S.O. 1970, c. 505, s. 120 (1).

## Board may act on certificate of committee as to payment of compensation

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of opinion that the committee sufficiently represents such employers and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the employee or dependant is satisfied with the sum named in the certificate. R.S.O. 1970, c. 505, s. 120 (2); 1973, c. 173, s. 1.

## Medium of communication

(3) The committee may be the medium of communication on the part of the class with the Board. R.S.O. 1970, c. 505, s. 120 (3).

## CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2

## Contribution by employers individually liable to expenses of administration

**125.** Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board considers just and determines and the sum payable by them shall be apportioned between such employers and be assessed and levied in like manner as in

the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments apply with necessary modifications to assessments made under the authority of this section. R.S.O. 1970, c. 505, s. 121.

**126.** The fines recovered for an offence against this Part shall be paid over to the Board and shall form part of the accident fund. R.S.O. 1970, c. 505, s. 122.

**127.** This Part applies only to the industries mentioned in Schedule 1 and 2 and to such industries as are added to them under the authority of this Part and to employments therein, and applies to any employment by or under the Crown in right of Ontario, including any employment by any permanent board or commission appointed by the Crown in right of Ontario. R.S.O. 1970, c. 505, s. 123.

## PART II

**128.** Subject to section 131, sections 129 and 130 apply only to the industries to which Part I does not apply and to the employees employed in such industries, but outworkers and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under Part I but who are excluded from the benefit of Part I, are not by this section excluded from the benefit of sections 129 and 130. R.S.O. 1970, c. 505, s. 124; 1973, c. 173, s. 1.

**129.**—(1) Where personal injury is caused to an employee by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment, the employee or, if the injury results in death, the legal personal representatives of the employee and any person entitled in case of death have an action against the employer, and, if the action is brought by the employee, he is entitled to recover from the employer the damages sustained by the employee by or in consequence of the injury, and, if the action is brought by the legal personal representatives of the employee or by or on behalf of persons entitled to damages under Part V of the *Family Law Reform Act*, they are entitled to recover such damages as they are entitled to under that Act. R.S.O. 1970, c. 505, s. 125 (1); 1973, c. 173, s. 1.



Liability of person applying defective ways, works, plant, etc.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to an employee employed by the contractor or by any subcontractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done is liable to the action as if the employee had been employed by him, and for that purpose shall be deemed to be the employer of the employee within the meaning of this Act, but any such contractor or subcontractor is liable to the action as if this subsection had not been enacted but not so that double damages are recoverable for the same injury. R.S.O. 1970, c. 505, s. 125 (2); 1973, c. 173, s. 1.

Liability of contractor and sub-contractor

(3) Nothing in subsection (2) affects any right or liability of the person for whom the work is done and the contractor or subcontractor as between themselves. R.S.O. 1970, c. 505, s. 125 (3).

Effect of continuance in employment after knowledge

(4) An employee shall not, by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence that caused his injury, be deemed to have voluntarily incurred the risk of the injury. R.S.O. 1970, c. 505, s. 125 (4); 1973, c. 173, s. 1.

Certain common law rules abrogated

R.S.O. 1980, c. 152

**130.**—(1) An employee shall be deemed not to have undertaken the risks due to the negligence of his fellow employees and contributory negligence on the part of an employee is not a bar to recovery by him or by any person entitled to damages under Part V of the *Family Law Reform Act* in an action for the recovery of damages for an injury sustained by or causing the death of the employee while in the service of his employer for which the employer would otherwise have been liable. R.S.O. 1970, c. 505, s. 126 (1); 1973, c. 173, s. 1.

Contributory negligence

(2) Contributory negligence on the part of the employee shall nevertheless be taken into account in assessing the damages in any such action. R.S.O. 1970, c. 505, s. 126 (2); 1973, c. 173, s. 1.

Domestic servants, etc.

**131.** This Act does not apply to domestic or menial servants or their employers. R.S.O. 1970, c. 505, s. 127.



## CHAPTER 540

## Workmen's Compensation Insurance Act

1. In this Act, "workman" includes the dependants of a workman entitled to recover damages under Part V of the *Family Law Reform Act*. R.S.O. 1970, c. 506, s. 1.

Interpre-  
tation  
R.S.O. 1980,  
c. 152

2. Where an employer is insured against his liability for damages to a workman under any Act of the Legislature, the insurance shall be deemed to be for and shall enure to the benefit of the workman, and if a workman has suffered injury in respect of which he is entitled to recover damages from his employer, the insurer shall not, without the consent of the workman, pay to the employer the amount for which the insurer is liable to him in respect of such injury, until the claim of the workman has been satisfied, and the workman if and when his right to recover the damages has been determined as against the employer is entitled to demand and recover from the insurer the amount of the damages and costs to the extent to which, but no further than, the employer is entitled to recover the same from the insurer. R.S.O. 1970, c. 506, s. 2.

Claim of  
workman on  
insurance  
moneys  
payable to  
employer

3. This Act does not apply to a workman who is entitled to compensation under Part I of the *Workmen's Compensation Act*. R.S.O. 1970, c. 506, s. 3.

Where Act  
not to apply  
R.S.O. 1980,  
c. 539





















